

Curling, Donna v. Raffensperger, Brad

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, et al.,
Plaintiffs,

CIVIL ACTION FILE

vs.

NO. 1:17-cv-2989-AT

BRAD RAFFENSPERGER, et al.,
Defendants.

30(b)(6) VIDEO DEPOSITION of the COALITION FOR GOOD
GOVERNANCE, INC. through MARILYN MARKS
March 17, 2022

11:01 a.m.

TAKEN BY REMOTE VIDEOCONFERENCE
Robyn Bosworth, RPR, CRR, CRC, CCR-B-2138

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1 THE VIDEOGRAPHER: Today's date is March
2 17th, 2022, and the time is 11:01 a.m. This will be
3 the 30(b)(6) videotaped deposition of Coalition for
4 Good Governance given by Marilyn Marks.

5 Will counsel please introduce themselves
6 and any objection to the witness being sworn in
7 remotely.

8 MR. TYSON: Good morning. My name is
9 Bryan Tyson. I represent the State Defendants in
10 this case, and I'm joined today by my colleagues,
11 Bryan Jacoutot and Diane LaRoss.

12 MR. MCGUIRE: And I am Robert McGuire.
13 I'm counsel for the plaintiffs -- for the Coalition
14 Plaintiffs and Coalition for Good Governance, and
15 I'm here representing the deponent.

16 THE VIDEOGRAPHER: Would the court
17 reporter please swear in the witness.

18 THE REPORTER: Do we need appearance from
19 Mr. Fuchs?

20 THE VIDEOGRAPHER: Sorry, what was the
21 question?

22 THE REPORTER: Is that all the appearances
23 we need on the record? Do we need to introduce any
24 other counsel?

25 MR. LOWMAN: I will say I am David Lowman

1 here for the Fulton County Defendants.

2 MARILYN MARKS,
3 having been first duly sworn, was examined and
4 testified as follows:

5 EXAMINATION

6 BY MR. TYSON:

7 Q Well, good morning, Ms. Marks. We'll do a
8 couple of housekeeping things real quick.

9 MR. TYSON: First of all, Mr. McGuire, are
10 you good with us reserving all objections except as
11 to form and responsiveness until trial or first use?

12 MR. MCGUIRE: Yes, and privilege, of
13 course.

14 MR. TYSON: Certainly, yes.

15 BY MR. TYSON:

16 Q And, Ms. Marks, you have the choice of
17 reading and signing or waiving that, reviewing the
18 transcript after today. I'm assuming you'd like to
19 read and sign?

20 A Yes, that's correct.

21 Q Okay. Well, good morning again. I'm
22 Bryan Tyson. I know we know each other well. It's
23 good to see you, Ms. Marks. I represent, obviously,
24 the State Defendants, the Secretary of State, and
25 the State Election Board.

1 Have you ever been deposed before? I
2 honestly can't remember.

3 A In this case, no.

4 Q Okay. So I'll quickly cover our ground
5 rules so they're clear. If you've been in a
6 deposition with me before you'll recall there are
7 times where I ask a question, and nobody understands
8 what I'm asking. If that happens and you don't
9 understand my question, just go ahead and let me
10 know that, and I'll rephrase it.

11 I know we're starting around 11:00
12 eastern. If you need a break at any point, just let
13 me know. Only request is that we not take a break
14 while a question is on the table.

15 And then for Zoom, obviously it's just
16 best if we don't talk over each other and try to
17 make as clean a transcript to make Robyn's life as
18 easy as possible for our court reporter.

19 So if that works for you, we'll go ahead
20 and get rolling.

21 A Certainly fine.

22 Q What I'll do is begin with a few
23 background questions, we won't have to spend too
24 much time in there, and then we'll move into the
25 notice and all the different pieces we have today.

1 If you can just state your name again for
2 the record.

3 A Yes, it's Marilyn Marks.

4 Q And what is your current address?

5 A [REDACTED]
6 Charlotte, North Carolina 28210.

7 Q And how long have you lived in North
8 Carolina?

9 A I moved -- I grew up here and left when I
10 was about 16, long time ago, and came back here in,
11 I think, 2015.

12 Q Have you taken any medication, or do you
13 have any medical condition that would keep you from
14 fully and truthfully participating today?

15 A No.

16 Q I know you mentioned you hadn't been
17 deposed in this case. Have you been deposed in any
18 case before?

19 A Yes. Going back to the '70s, '80s, '90s,
20 I was involved in large corporate environments and
21 with a lot of commercial litigation, so I've been
22 deposed a number of times, but not in -- not in the
23 last 20 years that I can remember.

24 Q Got it. I was going to say let's not go
25 beyond 20 years. I'll make it much easier on that

1 front.

2 A Okay. That sounds good.

3 Q So let me ask you about testimony in
4 trial. Do you recall testifying in a court in the
5 last 20 years?

6 A Yes.

7 Q And what was the case or what were the
8 cases where you were called to testify?

9 A Mr. Tyson, I'm sure I'm not going to
10 remember them all. I'm going to do my best, though.

11 Q Certainly.

12 A Going back to about 2009 there would have
13 been a case -- I sued the City of Aspen, Colorado,
14 and I would have testified in that case. I believe
15 I testified in a case against -- I'm going to come
16 up with the name of it in a minute. The county seat
17 is Salida, Colorado. It's Chaffee -- Chaffee
18 County, Colorado. We had a trial there. I can't
19 remember whether our organization sued or I sued,
20 but nevertheless, I think I testified there.

21 A case in Saguache County, Colorado, I
22 believe I testified there. I testified -- wait a
23 minute. I may not have testified in Saguache. I
24 was in the courtroom a lot. I can't remember
25 actually whether I took the witness stand. This has

1 been a long time ago. This is maybe 2010, 2011,
2 something like that.

3 Let's see. More recently one of our state
4 cases, I believe it might have been in the case
5 related to the Amico challenge. You know, I don't
6 think -- I'm sorry, I don't think I took the witness
7 stand.

8 Q Was it the case with Judge Grubbs in the
9 2018 lieutenant governor contest, does that ring a
10 bell?

11 A Yes, that's what I was thinking, but now
12 I'm not sure whether I did or not. I can remember
13 in one of the Georgia cases taking the witness
14 stand, I believe, but I can't quite remember which
15 it was. I'm sorry. I have to really think about it
16 for a while.

17 Q Totally fine. Don't worry about that.

18 A Okay.

19 Q So just to quickly -- the cases that you
20 were involved with in Colorado, were those both
21 election-related cases?

22 A There were -- there were numerous
23 election-related cases in Colorado, and I was not
24 involved in any kind of commercial litigation in
25 Colorado, but yes, those -- those were two of the

1 cases I was involved in.

2 Q And so what was -- how was -- how were
3 elections involved in the City of Aspen case that
4 you referenced?

5 A I ran for mayor of Aspen, Colorado in
6 2009, and they used instant runoff voting for the
7 first time, and the software turned out to have bugs
8 in it and didn't count right.

9 I decided not to ask for a recount or to
10 contest the election but instead waited purposely
11 until after the time the deadlines had passed, and
12 then I asked to see the ballots and ballot images as
13 public records to see -- we knew that there were
14 problems with the vote count, but we wanted to see,
15 you know, exactly how those problems manifested
16 themselves.

17 And so through public records request I
18 requested the ballots and was told, oh, no, ballots
19 aren't public records. And in Colorado legislation
20 had been passed to have ballots as public records.

21 And so I was introduced to Mr. McGuire at
22 that time, and we were both at that time living in
23 Colorado, and I engaged him to file an open records
24 lawsuit to obtain ballots as public records in this
25 election, and so that began work in litigation when

1 all else fails toward election transparency.

2 Q Thank you.

3 And so was the case against Salida -- I'm
4 sorry, Chaffee County, I believe you said, was that
5 also related to elections?

6 A It was.

7 Q And how was that related to elections?

8 A That had its roots in the same type of
9 issue as the Aspen, Colorado case did. After the --
10 I believe it was the court of appeals in Colorado
11 ruled in the Aspen case that ballots were, indeed,
12 public records, I then requested some ballots from
13 Salida -- excuse me, Chaffee. Forget Salida. I
14 shouldn't have mentioned it. I was struggling to
15 come up with the county name.

16 I requested some Chaffee County ballots,
17 and I got the response back -- and now this is
18 through open records -- got the response back,
19 sorry, you can't have them because they would show
20 how people voted. And I remember laughing so much
21 at that answer and thinking, are they crazy? Of
22 course ballots don't show how people voted.

23 Well, with a little more exploration I
24 found out, indeed, they did show how people voted,
25 that there were bar code serial numbers on each

1 ballot. And that became, I believe, one of the
2 issues that was derived -- I'm a little -- I'm
3 struggling a little bit now to remember whether that
4 case itself was about secret ballot or whether it
5 was about open records because they were refusing to
6 give us the ballots, and to our surprise they were
7 right that the ballots did disclose how people voted
8 which then led to other litigation that we didn't
9 talk about in Colorado that I didn't take the
10 witness stand on where I engaged Mr. McGuire. And I
11 say I did. I believe it was -- it was the
12 predecessor to Coalition for Good Governance.

13 And so we engaged Mr. McGuire to sue the
14 Secretary of State in federal court on the issue of
15 ballots as secret -- excuse me, secret ballots there
16 related to what we had learned in the prior case
17 about identifiable bar codes on the ballots.

18 Q Thank you. That's very helpful.

19 Have you been involved in election-related
20 litigation in any states besides Colorado and
21 Georgia?

22 A We have not filed any cases ourselves. I
23 was just trying to think back of whether or not I've
24 been called as a witness or anybody in our -- like,
25 our board of directors might have been called as a

1 witness.

2 Q Let me ask a more specific question.

3 A Okay. All right.

4 Q Have you personally been a plaintiff in
5 any lawsuits about election administration in states
6 other than Colorado and Georgia?

7 A No, I have not as an individual been
8 involved in election litigation.

9 Q Thank you.

10 Have you ever been charged with a crime
11 before?

12 A No.

13 Q So you've never been arrested?

14 A No.

15 Q So never been convicted. That's easy
16 enough.

17 A No.

18 Q Have you discussed this case -- well, let
19 me actually go to a different area. Let's do a
20 little more on background.

21 A Okay.

22 Q Can you briefly summarize for me your --
23 any college degrees that you have and when you
24 received those?

25 A Yes. I have a degree in accounting, a

1 bachelor of science in accounting, and I graduated
2 in 1975.

3 Q And from what institution did you receive
4 your bachelor's of science?

5 A University of Tennessee at the Chattanooga
6 campus.

7 Q And do you hold any other degrees?

8 A I knew you were going to ask that, and I
9 started looking for the name of it today, and my
10 records are not in the kind of shape that they
11 should be. I'm going to give you -- I'm going to
12 give you something close, and it'll have to do for
13 today, but there is an advanced management degree
14 that I have from Harvard Business School, but I'm
15 not telling you the exact name of it because I can't
16 exactly remember the name of it. But it was an
17 advanced management degree for CEOs, and I cannot
18 remember what year it was, and I couldn't find my
19 records on what year it was, but it would have
20 probably been around year 2000, something like that.

21 Q Besides your bachelor of science and the
22 degree from Harvard Business School, we'll just call
23 it that, do you have any other degrees?

24 A No other degrees. I have professional
25 certification as a CPA about the same time as --

1 shortly after I graduated from college.

2 Q That was going to be my next question, if
3 you hold any professional licenses at all.

4 A I gave that up several decades ago, but at
5 that time, you know, in the '70s and '80s I was a
6 CPA.

7 Q Okay. Do you have any certifications that
8 you held?

9 A Let me think about that. I'm trying to
10 remember if there was something related to my
11 service on public company boards that -- if I did
12 I'm not -- I'm not quite remembering it right now.

13 Q Okay.

14 A Nothing that I have used extensively as a
15 certification.

16 Q Okay. That's helpful. Thank you.

17 And do you recall approximately when you
18 gave up your CPA license?

19 A It was probably the mid '80s.

20 Q And was that a voluntary decision or were
21 you required to surrender it?

22 A Oh, no. Heavens, no. It was a voluntary
23 decision because I moved out of anything that was
24 directly financial related and became a CEO of a
25 company, and I didn't really -- I had other people

1 do that kind of work. I couldn't possibly keep up
2 with the education requirements and that sort of
3 thing for maintaining a CPA license.

4 Q Got it. Thank you.

5 So I know you've had, obviously, a long
6 employment history. I don't want to dig through
7 every single thing you've done since the 1970s, but
8 could we start with maybe the year 2000 and forward
9 and just kind of summarize your employers over that
10 time?

11 A Yes. So that's going to be easy because I
12 retired in about 2001, something like that. I was
13 the CEO for Dorsey Trailers, Inc., which was a truck
14 trailer manufacturer and manufacturing company, and
15 it was headquartered in Atlanta. It was a public
16 company. And at that same time, around that point
17 in time, I was also on the board of a New York Stock
18 Exchange company by the name of Dana, D-A-N-A,
19 Corporation, and also on the board of Eastman
20 Chemicals Corporation. So those were the paying
21 gigs I had back in those days.

22 Q And so you retired around 2001. Have you
23 had any kind of formal employment since that time?

24 A Not any kind of formal employment. I
25 serve certainly full-time for Coalition for Good

1 Governance, but unfortunately at the moment it's an
2 unpaid -- it's an unpaid gig.

3 Q Understood.

4 So you've mentioned board service. What
5 boards are you currently serving on, if any?

6 A Only -- only Coalition for Good
7 Governance.

8 Q In the last 10 years have you served on
9 the boards of any other organizations?

10 A Not in the last 10 years.

11 Q Have you ever served on the board of any
12 other voting-related organization?

13 A I have not.

14 Q Do you have any specialized training that
15 you've received about elections and elections
16 administration specifically?

17 A When you say "specialized training," I
18 would think of that as attending seminars, workshops
19 taught by experts in fields like particularly
20 auditing, sometimes election security technology,
21 technology -- public policy on technology. Seminars
22 like that are -- I frequently attend. I would have
23 a hard time remembering all of them for you over --
24 from the last 10 years.

25 Q Understood. I don't want to ask you to

1 try to dig through all that.

2 Have any of those seminars you've attended
3 about election administration resulted in any
4 certifications? I think the answer is no because I
5 don't think you hold any certifications, but I just
6 wanted to verify that.

7 A That is correct, I do not.

8 Q And you don't have any specialized or
9 any -- I'm sorry. You don't have any certifications
10 in election security either, correct?

11 A I'm not even aware that any exist, but if
12 I find out that some such programs do, it's
13 something I would be interested in participating in.

14 Q Got it.

15 And you don't hold any certifications in
16 cybersecurity, right?

17 A I do not.

18 Q You mentioned various symposiums and
19 seminars. I don't want to ask all the ones you've
20 attended, but can you recall maybe in the last 10
21 years any symposiums where you've spoken about
22 election security topics?

23 A Sure. Let me think about that for just a
24 moment. I have been frequently involved in Election
25 Verification Network. In fact, they are meeting

1 today, and I had to forego the idea of presenting
2 there today. But it's a national group that really
3 focuses on election security, and I have from time
4 to time over the years presented at panels, that
5 sort of thing.

6 I not too long ago presented at a National
7 Science Foundation educational meeting. I couldn't
8 come up with the name of it for you right now, but I
9 presented there on -- I believe it was on election
10 auditing and making use of ballot images in
11 precursors to audits. That may not be quite right,
12 but it's in the ballpark.

13 Let's see, where else have I done speaking
14 on this. It seems like I've done a lot of it, it's
15 just not coming to my mind right now. I'll think
16 about it some more in background.

17 Mr. Tyson, I feel like I've got more to
18 tell you on that, I just cannot remember right now.
19 I -- we are asked so frequently to do presentations,
20 and right now I'm just not having the time to say
21 yes to that, and -- but I've done a good bit of it
22 in the past, but being specific about that right
23 now -- it's something that, quite frankly, I didn't
24 prepare for and didn't refresh my recollections on
25 that.

1 Q And that's totally fine. I'm not trying
2 to give you a memory test on this.

3 A I will fail.

4 Q That's helpful. Thank you.

5 So let's go ahead and move on to our kind
6 of 30(b)(6) phase. We finished up with the
7 background pieces. As we're getting started here I
8 just want to confirm, Ms. Marks, do you have any
9 documents or anything in front of you that you have
10 available?

11 A The only thingy in front of me is a bunch
12 of blank paper to take some notes, and then I have
13 one page of hand-scribbled notes about some of the
14 projects that we have going and don't have going.

15 Q Okay. And if we could, if it's okay with
16 Mr. McGuire, we can just mark that as an exhibit
17 once we get rolling here after the deposition if
18 you're going to use it to refresh your recollection
19 about your testimony.

20 MR. MCGUIRE: Yeah, that's fine with me.

21 BY MR. TYSON:

22 Q We can do that at a break, Ms. Marks. We
23 don't have to do that right now.

24 Let me direct you to Exhibit Share,
25 Exhibit 1, which we marked, the second amended

1 notice of the 30(b)(6) deposition.

2 (Exhibit Number 1 was marked for
3 identification.)

4 BY MR. TYSON:

5 Q You know what I can do? Let's make it
6 easy to start with. I can go ahead and --

7 A You going to screen share? Okay. That's
8 great.

9 Q Is that easy enough there to see?

10 A Sure. Uh-huh.

11 Q Marked as Exhibit 1?

12 A Uh-huh.

13 Q And this document is titled the Second
14 Amended notice of 30(b)(6) Deposition of the
15 Coalition for Good Governance. You see that?

16 A Yes.

17 Q I'm assuming you've seen this document
18 before?

19 A I have.

20 Q And you've read this document?

21 A I have.

22 Q So let me go to the second page, and I
23 have a kind of series of 30(b)(6) questions I'll ask
24 you that we'll get on the record about this.

25 A Okay.

1 Q You see here in this section it indicates
2 that the organization must designate one or more
3 officers, directors, managing agents or other
4 appropriate persons to testify on behalf of the
5 organization; do you see that?

6 A I do.

7 Q And are you the person that the Coalition
8 for Good Governance has designated for this
9 deposition?

10 A Yes, I am.

11 Q Okay. And you see the next sentence
12 there, the person or persons must be ready to
13 testify about the information known or reasonably
14 available to the organization regarding the topics
15 listed in Exhibit A; do you see that language?

16 A I do.

17 Q And are you the individual designated for
18 all the topics on Exhibit A?

19 A Yes, I am.

20 Q And you understand that as the designee of
21 the Coalition, you're testifying about what
22 information is known or reasonably available to
23 the -- the organization, not just to you
24 individually, right?

25 A Yes, I do understand that.

1 Q And as we use the term "organization" or
2 "Coalition" or "CGG," you understand that refers to
3 the entity Coalition for Good Governance, right?

4 A Yes, I do understand that.

5 Q Do you have a preference? Do you usually
6 say Coalition or CGG, or do you have a --

7 A CGG, whatever is easy. It's fine.

8 Q Well, when did you first learn that you
9 were going to be testifying -- I'm sorry, let me do
10 one more thing before we change here. We have also
11 marked as Exhibit 2 -- if I can make this work the
12 way I want it to -- the notice of objections to the
13 30(b)(6) deposition.

14 (Exhibit Number 2 was marked for
15 identification.)

16 BY MR. TYSON:

17 Q Do you see that document?

18 A I do see that document.

19 Q And Mr. McGuire and I have discussed this
20 is the Coalition's objections, and we will be
21 dealing with the objections as we work through each
22 topic.

23 A That's fine.

24 Q Is that your understanding?

25 A Yes.

1 Q Okay, great, just so we have both of those
2 marked.

3 So when did you first learn about that
4 you'd be testifying at this deposition?

5 A Do you mean when did I first learn what
6 time it was going to be or that my deposition would
7 be -- or the Coalition's deposition would be taken?

8 Q Let me ask a better question.

9 A All right.

10 Q When did you first learn you were going to
11 be the 30(b)(6) witness for the Coalition?

12 A I knew that I would be the 30(b)(6)
13 witness for the Coalition from the moment that
14 depositions were being discussed for the Coalition.
15 How long ago that goes back I don't know, but
16 probably over a year.

17 Q Okay. Did you or someone else make the
18 decision that you were going to be the 30(b)(6)
19 designee, or did you just understand that was going
20 to be the case?

21 A Well, I figured at a minimum I would be a
22 major participant, but I certainly talked to our
23 board members about it, and they concur that I have
24 the greatest depth and breadth of knowledge, and I
25 checked with a couple of them about these topics and

1 asked if they thought they had additional knowledge
2 that maybe I did not have and that sort of thing.
3 So it was an organization decision that I would be
4 the designee.

5 Q Thank you.

6 Do you recall approximately when you
7 started preparing for this deposition and these
8 topics in particular?

9 A Feel like I was a child probably when
10 that -- when I started preparing. No, because all
11 along, of course, I've known that my -- my
12 deposition and/or the deposition of CGG would be
13 taken, you know, the preparation is kind of always
14 in the back of your mind of -- so there's no mark in
15 time where I said, this is in preparation, and
16 everything I've done to date was not.

17 Q Got it.

18 So can you just summarize in your own
19 words what you understand your obligations were
20 regarding this deposition?

21 A Yes, to prepare myself for all of the
22 topics that were in the notice -- the second amended
23 notice, and to the extent that my attorneys did not
24 have objections to them to prepare myself to know as
25 much as practically possible about those topics, and

1 to testify on behalf not just to my personal
2 knowledge but knowledge of the organization.

3 Q Well, let's talk next about how you got
4 ready then for today.

5 A Okay.

6 Q So I know you mentioned you spoke with the
7 board members. As a general matter what else did
8 you do specifically to get ready for today, not all
9 your training of your life that has prepared you for
10 this moment, but specifically for today what did you
11 do to get ready?

12 A Okay. I had a talk with Mr. McGuire to
13 try to prepare, I had a brief conferral with
14 Mr. Cary Ichter, one of our other attorneys, I -- as
15 I mentioned to you, I chatted with a couple of our
16 board members, and I also talked to a few of our
17 very active members who work with me on so many
18 projects to see if they had anything in mind that I
19 might be forgetting or might not be aware of. And
20 then I made a few notes about some of the projects
21 that I would consider to be quite incomplete for us,
22 and things that we are having to defer that we were
23 working on or decline.

24 So I did that, and, as I said, I tried to
25 find my -- some of the educational years and

1 certificates and couldn't do it. That -- I think
2 that encompasses most of the preparation work I can
3 remember right now.

4 Q Thank you. That's helpful.

5 Are you aware that the State originally
6 sought to take this deposition in October of last
7 year?

8 A I don't remember the dates. I know that
9 this CGG deposition has been talked about at various
10 times for many months.

11 Q Are you aware that your counsel requested
12 the deposition be postponed because there were
13 additional documents that needed to be produced?

14 A Yes.

15 Q Do you know what those additional
16 documents were that needed to be produced?

17 A As I sit here at this moment I don't
18 recall that, but I do know that over the last
19 several months we've had additional documents that
20 we felt were important background, and some of
21 those, I believe, have been actually put into the
22 record -- some of those that we would have been
23 thinking of would have been put into the record, I
24 guess, in other depositions as well as -- as well as
25 sent to you-all through even recent updates of

1 our -- of our documents.

2 Q Yes. And so as of today is the
3 Coalition's document production complete?

4 A Yes, but, of course, I know that we have
5 obligations to supplement as we -- as we go along,
6 and, quite frankly, every day there's some new
7 project or something that we're having to divert
8 resources or decline something to that extent that I
9 know that we are not completely finished with
10 document production because there'll be
11 supplemental.

12 Q But those are not documents that exist
13 today; those are documents that will enter the
14 Coalition's universe in the future, right?

15 A Right.

16 Q So let's take -- let's talk through some
17 specific categories of documents that you looked at
18 to get ready for today specifically.

19 Did you review any financial records of
20 the Coalition for Good Governance?

21 A I did. I looked at our 990s. Our -- you
22 know what I mean by our -- our Form 990s on behalf
23 of Coalition for Good Governance that have been
24 filed with the IRS.

25 Q Did you review any other financial

1 documents besides the 990s?

2 A No, I didn't.

3 Q Did you review any of your prior
4 declarations in this case?

5 A I have not looked at those for purposes of
6 this preparation.

7 Q Have you reviewed the third amended
8 complaint or the first supplemental complaint to get
9 ready for today?

10 A I actually looked at the first
11 supplemental complaint about two weeks ago. I did
12 not go back and read the third amended complaint.

13 Q And did you review e-mails to get ready
14 for today?

15 A Yes, I did.

16 Q Are there --

17 A Certainly not all of my e-mails, but yes,
18 I did look at e-mails particularly to produce some
19 documents related to other activities that we were
20 having to decline or defer.

21 Q Are there any other categories of paper
22 documents that we haven't discussed that you
23 reviewed that you can think of?

24 A Let me think for just a second. Nothing's
25 coming to mind right now, but I don't know. A lot

1 of documents pass -- pass through my computer that I
2 might have forgotten about right now.

3 Q That's all right.

4 So did you review any prior testimony to
5 get ready for the deposition today?

6 A Not -- not specifically for -- for today.

7 Q I know you mentioned that you spoke to
8 some of the board members about getting ready for
9 today. Obviously as we discussed the notice
10 requires the information known or reasonably
11 available to the organization be what the testimony
12 is about. Were there specific topics that you spoke
13 with the board members about in order to prepare for
14 today?

15 A It was generally talking about the
16 projects that -- some of which I had almost
17 forgotten about that they had charged me with
18 working on that didn't get done. That was one of
19 the key things that we did talk about.

20 Q And who are the other board members that
21 you spoke to?

22 A Virginia Rutledge Forney is her name, one
23 name, and then Mary Eberle. It's been a couple days
24 on that. Few days on that.

25 Q And are you, Ms. Rutledge, and Ms. Eberle

1 the only members of the board of the Coalition?

2 A No. Sorry, it's Virginia Rutledge Forney,
3 F-O-R-N-E-Y, is her name. And no, that -- there are
4 other board members.

5 Q Okay. We'll get into that specifically,
6 but for the members of the board that you spoke to
7 to get ready, that was just Ms. Rutledge Forney and
8 Ms. Eberle, correct?

9 A Correct.

10 Q You speak with anybody else besides your
11 attorneys to prepare for today?

12 A Yes.

13 Q And who are those other individuals?

14 A I talked to Ms. Jeanne Dufort,
15 D-U-F-O-R-T, and Ms. Aileen, A-I-L-E-E-N, Nakamura,
16 N-A-K-A-M-U-R-A.

17 Q So just to make sure I've got all these
18 pieces, the individuals you spoke to besides your
19 attorneys to prepare for today are Ms. Rutledge
20 Forney, Ms. Eberle, Ms. Dufort, and Ms. Nakamura,
21 correct?

22 A Yes. I'm trying to think if there was
23 anyone else. I'm thinking for just a second. I'm
24 trying to remember if I covered some of this in a
25 conversation I had with Ms. Joy Wasson, and I might

1 have covered it very generally, but it wasn't
2 necessarily saying, hey, look, I am preparing for my
3 deposition, and can you tell me this.

4 Q Got it. Thank you.

5 So for Ms. Dufort, do you recall what
6 topics you needed to speak with Ms. Dufort about to
7 get ready for today?

8 A Yes, we were talking about topics on,
9 again, projects that I have not fulfilled my
10 promises on that the organization has been unable to
11 complete, and we also were talking about the need to
12 do better communications with our members, and so
13 that's mainly what we talked about.

14 Q Same question for Ms. Nakamura, were there
15 topics -- which topics did you need to speak with
16 Ms. Nakamura about to be prepared for today?

17 A It was also related to where we stood on
18 various projects that we have undertaken and not
19 finished and trying to get status on some of those
20 things.

21 Q And what role does Ms. Dufort play in the
22 Coalition?

23 A She is one of our most active members.
24 And she does not have a formal title, she is not a
25 formal board member, but I consider her a close

1 advisor and very, very, very active in shaping the
2 work we do.

3 Q And what is Ms. Nakamura's role in the
4 Coalition?

5 A It would be very much the same as
6 Ms. Dufort. I rely on her a lot for her -- for her
7 advice on community outreach, on participating in
8 some of our projects, and just very similar to
9 Ms. Dufort, they're just very active members that
10 follow.

11 She and Aileen Nakamura particularly
12 follows what's happening in Fulton County. She
13 attends all the board meetings and that sort of
14 thing, and she is the one who keeps me most up to
15 date with -- and keeps the whole organization up to
16 date with Fulton County's Board of Elections
17 activities.

18 Q Thank you.

19 Is there any topic in the notice of
20 deposition on which you are not prepared to testify
21 on behalf of the Coalition today?

22 A I don't think so, but I'll take a moment
23 and read back through it if that's okay.

24 Q Sure.

25 MR. MCGUIRE: And, Bryan, just want to

1 interject I don't want it to get lost she has not
2 prepared on things we have objected to.

3 MR. TYSON: Thank you. Thank you for that
4 clarification. And those objections are all in
5 Exhibit 2, correct?

6 MR. MCGUIRE: Yes, unless -- the one thing
7 I would add to that is documents -- 1203 is a
8 court's order that pertains to private
9 communications of the Curling plaintiffs, and we are
10 going to adhere to that. I would believe the
11 rationale applies to us as well.

12 MR. TYSON: Thank you for that
13 clarification.

14 A I'm just scrolling back through the
15 document.

16 BY MR. TYSON:

17 Q Take your time. Just let me know when
18 you're finished.

19 A Okay. I'm not going to say my memory is
20 perfect on all of these things, but the one thing I
21 forgot to look at, but it's easily findable, you
22 asked about the exempt purpose, and I can tell you
23 generally I meant to look back at the exact words of
24 our mission statement, and I forgot to do that, but
25 that's easily findable.

1 Q Certainly. And that's a topic we'll
2 actually cover with exhibits, so we'll be --

3 A Okay. All right.

4 Q So aside from that, any objections that
5 Mr. McGuire noted, you're prepared to testify on all
6 of these topics, correct?

7 A Yes.

8 Q So with that, let's go ahead and move on
9 to the topics. Are you good? Do you want to take a
10 break now before we --

11 A I'm good if you guys are.

12 MR. MCGUIRE: Actually, would you mind if
13 we took a five-minute break? I just have something
14 I have to attend to.

15 MR. TYSON: That's good. 8:55 for Rob,
16 11:55 for the rest of us.

17 THE VIDEOGRAPHER: The time is 11:49 a.m.
18 We're off the record.

19 (Recess 11:49-11:54 a.m.)

20 THE VIDEOGRAPHER: Time is 11:54 a.m.
21 We're on the record.

22 BY MR. TYSON:

23 Q Thank you, Ms. Marks. So we're going to
24 go ahead and begin on the various topics, and my
25 goal is for us to just kind of move through these in

1 order. There are going to be some questions that
2 kind of apply to multiple topics, but I'm going to
3 try to keep us kind of just marching through Exhibit
4 A as best we can to the deposition notice.

5 I'm likely going to refer to documents as
6 we go through. The ones I think we'll need to keep
7 handy are Exhibit 1, the notice of deposition, just
8 so we have that one available, and we may look at
9 the complaints a couple times as we work through
10 things, but we can cover that as we go.

11 So let --

12 A Bryan, hold on just a second. Let me make
13 sure I've got my Exhibit Share in a place I can get
14 to it.

15 Q Sure. And what I'll do, I'll just share
16 the screen as we go also to help make things easier
17 for you.

18 A Okay. Now I have screwed up the screen.
19 Let's see. Just a second. Let me get reorganized
20 here.

21 So am I -- am I to be seeing right now
22 Exhibit A, you're sharing that, is that what my
23 screen is supposed to be?

24 Q Yes, I'm sharing that. I can stop the
25 share if that helps you figure out.

1 A No. I've got two screens up. I'm going
2 to minimize the Exhibit Share then and just look at
3 your screen share.

4 Q Great. And then other thing is if you
5 have to refer to a document at all to answer any of
6 these questions, just let me know that so we can
7 make sure that's part of the record as well. Most
8 of the documents I'll be presenting to you as
9 exhibits, but if you have something else you're
10 referring to, just let me know that.

11 A Okay. I don't have any documents, like,
12 set up to talk about, okay?

13 Q Okay, great.

14 Let's begin with topic number 1 here. It
15 is the organization's allocation of resources and
16 budgetary decisions from January 1, 2017, through
17 the present that reflect the diversion of funds and
18 resources the organization alleges it has undertaken
19 in its third amended complaint and first
20 supplemental complaint.

21 Do you see that topic?

22 A I do.

23 Q For each of these I'm going to ask you a
24 series of questions about it, so you'll hear these
25 over and over.

1 You are the designee of CGG for topic 1,
2 correct?

3 A Correct.

4 Q And we discussed documents you reviewed to
5 prepare for your testimony generally. Were there
6 documents that you reviewed specifically for topic 1
7 in preparation?

8 A I did look at our Form 990, but not any
9 other specific documents.

10 Q Okay. And we've talked generally about
11 who you spoke to to get ready for your deposition
12 today. Did you speak to anyone currently associated
13 with CGG to prepare for your testimony on topic 1
14 specifically?

15 A For all of the people that we discussed
16 that I talked with, and I'm excluding counsel, okay,
17 from those -- from my answer, but for all of those
18 people actually what we were talking about is the
19 diversion of resources and allocation of resources
20 as we talked about the various projects that we have
21 undertaken, been unable to undertake, unable to
22 complete, and the ones that we are engaged in. So
23 that was the main -- main topic of those
24 conversations.

25 Q And you mentioned earlier that you had

1 spoken with Ms. Dufort and Ms. Nakamura, who were
2 members, part of those conversations related to your
3 preparation for topic number 1; is that right?

4 A That's correct.

5 Q And did you speak to any other members
6 about topic 1 specifically besides Ms. Dufort and
7 Ms. Nakamura?

8 A I have recently talked with Ms. Joy
9 Wasson, but, you know, it was -- it was about this
10 topic, but I don't know that we were talking about
11 it in the context of, hey, I am preparing for
12 deposition. It was really much -- it might have
13 been in my mind that I knew we would be discussing
14 this, but I don't know that I formalized the request
15 as, hey, this is in formal preparation.

16 Q Got it.

17 And so what value -- I'm sorry, let me ask
18 it this way: In speaking with Ms. Nakamura,
19 Ms. Dufort, and Ms. Wasson --

20 A Wasson, W-A-S-S-O-N.

21 Q -- what information did they have about
22 the Coalition that was relevant to this topic?

23 A They were refreshing my recollection,
24 putting me on a guilt trip about some of the
25 unfinished projects that we had all agreed that were

1 important to us that didn't get done.

2 Q And were those projects that you were
3 charged with undertaking, is that why it was a guilt
4 trip?

5 A These were either undertaken or providing
6 some strategic direction or providing introductions
7 to other organizations that might help or
8 reviewing -- reviewing ideas and documents,
9 something that was left either in my -- in my court
10 or the interns -- we have interns that help us from
11 time to time, and their priorities are constantly
12 getting shifted because this litigation ends up
13 taking priority over everything else most of the
14 time, and so their priorities get shifted, and so
15 sometimes our very active members like Ms. Dufort,
16 Ms. Wasson are awaiting intern work that gets backed
17 up.

18 Q Helpful. Thank you. And I realize,
19 Ms. Marks, I don't think I asked you in the
20 background piece, what is your official title at
21 CGG?

22 A Executive director, and I think I'm -- I
23 think I'm also vice president, and I am on the
24 board. I can't remember if I'm vice chairman or
25 not. But I'm on the board, executive director, and

1 vice president.

2 Q Thank you.

3 Last kind of preparatory question on this:
4 Did you speak to anybody who was formerly associated
5 with CGG in order to prepare for topic 1?

6 A Are you saying formally, M-A-L-L-E-Y
7 (sic), or formerly?

8 Q Formerly, no longer associated with CGG?

9 A No. No.

10 Q So let me first ask this question: Does
11 CGG claim that it has had to divert financial
12 resources as a result of what it alleges are
13 unconstitutional or other unlawful acts of the State
14 Defendants in this case?

15 A Yes.

16 MR. MCGUIRE: Object to form.

17 BY MR. TYSON:

18 Q Does CGG claim that it had to divert
19 non-financial resources as a result of what it
20 alleges are unconstitutional or other unlawful acts
21 of the State Defendants?

22 A Yes.

23 Q Can you identify what specific actions of
24 the State Defendants have caused CGG's diversion of
25 resources?

1 A Well, I would certainly refer you to the
2 complaint, to our other filings, motion for
3 preliminary injunction, all the briefs, and
4 certainly there are an array of actions of the State
5 Defendants that have caused the diversion of
6 resources as it relates to the Dominion Voting
7 System and the failures of the audits to be --

8 (Simultaneous speaking.)

9 Q So -- thank you. I'm sorry, I didn't mean
10 to interrupt.

11 A And I interrupted you. I apologize.

12 Q Just so I understand, is it correct that
13 the actions that CGG alleges the State Defendants
14 have undertaken that have caused the diversion of
15 resources are outlined in your complaints in this
16 case?

17 A Complaints and briefs and other motions,
18 yes.

19 Q So in order to determine the specific
20 acts, you need to kind of look at the entirety of
21 the docket; is that fair to say?

22 A Yes, and I'm sure -- I'm sure it -- the
23 entirety of the docket still does not cover every
24 type of activity that we find objectionable that may
25 have taken place at counties, may have taken place

1 since the last time that documents were filed, but
2 yes, the basic -- the basic objections that we have
3 are covered in the docket.

4 Q And just so I understand, you referenced
5 actions of counties. Is CGG diverting resources for
6 things that -- for nonparties in this case as well?

7 A When you say "for nonparties" --

8 Q Let me ask it this way --

9 A Okay.

10 Q -- if that's -- is CGG also diverting
11 resources based on the actions of nonparties to the
12 Curling case?

13 A I'm not sure that we would know how to
14 parse out -- when we see election administration
15 problems in a county, I'm not sure we would know how
16 to parse out how much of that is attributable to a
17 County's misunderstanding, misapplication versus the
18 law and the direction of the State Defendants. I
19 don't think we have any such precision.

20 Q So if CGG prevailed on all of its claims
21 in the Curling case, but counties continued to have
22 election administration problems, CGG would continue
23 diverting resources to address those county
24 problems, right?

25 A I don't know that I would call that

1 necessarily diverting resources because if we're
2 talking about, hey, if BMDs went away tomorrow and
3 the Dominion Voting System were remedied in the ways
4 that we have requested for our relief, if all of
5 that happened tomorrow morning, I expect that we
6 would still -- I know we would still be working on
7 county election administration problems and issues.

8 I wouldn't necessarily call -- I wouldn't
9 call that a diversion -- at all call that a
10 diversion of resources. That's much more of the
11 core of the kind of work we want to do and have not
12 been able to do.

13 Do I expect that should we be successful
14 in obtaining relief on everything we ask for all
15 election administration problems go away, no, I
16 don't expect that. And that's really much more, as
17 I say, of the kind of work we want to do is the more
18 day-to-day local-level transparency and voter
19 protection type of work.

20 Q Thank you.

21 I've marked as Exhibit 3, I'll go ahead
22 and share this on the screen, the third amended
23 complaint, which is document number 226 in the
24 Curling case.

25 (Exhibit Number 3 was marked for

1 identification.)

2 BY MR. TYSON:

3 Q Do you see that document there?

4 A Yes. I'm seeing document 226, yes.

5 Q Yes. And so just for reference just so I
6 can show you, make sure we see, this is marked as
7 Exhibit 3, the third amended complaint of the
8 Coalition for Good Governance and the other parties.

9 You see that?

10 A I do. Remind me when that was filed.

11 Let's look at the --

12 Q It was filed --

13 A Thank you. Okay.

14 Q So what I want to do, there's some
15 specific allegations beginning on page 54 related to
16 the standing of the Coalition, and I want to ask you
17 specifically about paragraph 142, and the Coalition
18 says: Defendants' prior and intended imminent
19 enforcement of statute in Title 21 in the State
20 Election Board Rule have caused and will cause
21 Coalition to divert resources and personnel to
22 counteract Defendants' illegal acts.

23 Is the diversion of resources that's being
24 referred to there the filing of this litigation?

25 A Do you mind bringing up those statutes and

1 rules to remind me what -- put this in context for
2 me, if you don't mind? It's been a long time since
3 I looked at this complaint.

4 Q Certainly. Let me see if I can get those
5 up here for you. And maybe I can ask a more general
6 question while I'm pulling these up for you.

7 A Okay.

8 Q What specifically does the Coalition
9 allege that it is having to spend financial and
10 non-financial resources on as a result of the
11 alleged actions or the actions of the State
12 Defendants in this case?

13 A Well, certainly litigation cost is an
14 enormous drain on our resources and all that goes to
15 support the attorneys.

16 Are you wanting me to, like, tell you
17 things like we have to buy transcripts; are you
18 asking me to list kind of litigation support cost --
19 I mean expenses?

20 Q I'm not looking specifically for numbers.
21 What I'm looking for is kind of by category. So the
22 allegation is that you had to divert resources from
23 something to something else.

24 A Right.

25 Q And my question is: What is the Coalition

1 diverting resources to as a result of the actions
2 that are alleged in your complaints?

3 A And you're asking right now about
4 financial resources, correct?

5 Q Let's start with financial, and then we'll
6 do volunteer or other non-financial resources next.
7 So the record's clear let me ask the question again
8 specifically about finances.

9 A Okay.

10 Q What financial resources is the Coalition
11 diverting from existing projects -- I'm sorry. I
12 turned myself around. Let me start again.

13 So the Coalition is alleging that it
14 diverted resources from certain things to other
15 things, financial resources, correct?

16 A Yes.

17 Q And what specifically is the Coalition
18 diverting its financial resources to as a result of
19 the allegations in the complaint?

20 A Okay. And, Mr. Tyson, I'm going to answer
21 as it relates to the complaint as opposed to
22 answering based on those two citations because I
23 don't remember what those citations are right now.
24 Okay?

25 Q That's fine.

1 A Okay. So as you know litigation is
2 expensive, and there are way too many types of
3 expenditures we have to make to support litigation
4 that we would prefer not to be involved in.

5 One, the example I gave you for a moment
6 ago, we certainly have to buy transcripts, we have
7 to buy services that collect documents, and, for
8 example, our Logikcull subscription is expensive.
9 We have to pay the attorneys what we can, and it
10 basically absorbs almost all of the financial
11 resources that we would otherwise be spending on
12 non-litigation programs.

13 And let's see. We have had to pay experts
14 and travel for experts, travel for our attorneys
15 back in the days before COVID when we did things in
16 person, and so it is the entire variety of things
17 that go to support litigation.

18 Our interns, we do pay our interns
19 modestly, but it's still big money to us, and they
20 spend the majority of their time on litigation
21 support, whether it's doing analytical work or doing
22 some research for us.

23 So I'm sure that is not all that we -- of
24 the types of expenditures that we have that go for
25 litigation support, but that's -- that will be

1 generally the types of expenditures we have.

2 Q Let me ask you about some of the specifics
3 in the third amended complaint, Exhibit 3.

4 A All right.

5 Q You see the second part, it says:
6 Specifically, Coalition has been and will be
7 required by Defendants' past and intended conduct to
8 do the following.

9 And on the next page the first bullet
10 point relates to the topics you just discussed:
11 Paying the fees of lawyers, litigation, travel,
12 copying, all those types of expenses.

13 Do you see that?

14 A I do, and it makes me think of some other
15 stuff that I forgot about expenses.

16 Q Okay. My question specifically, though,
17 is if this lawsuit was over, then you would no
18 longer have to pay for the things that are listed in
19 the first bullet on page 55, correct?

20 A That's correct.

21 Q And the second bullet point is a
22 non-financial allegation here, and it's 90 percent
23 your time, and I suspect it may be more -- feel like
24 more than 90 percent of your time.

25 A It does. I think we missed a zero there.

1 Q -- to participation and management in the
2 Coalition's litigation, educational, and
3 investigative efforts undertaken to counteract
4 Defendants' conduct in Georgia.

5 Do you see that?

6 A I do.

7 Q And if this lawsuit was over you would no
8 longer have to devote 90 percent of your time or
9 more to these litigation efforts at least, right?

10 MR. MCGUIRE: Objection, misstates the
11 document.

12 BY MR. TYSON:

13 Q You can answer if you can.

14 A Well, if the litigation on the Dominion
15 Voting System were over, indeed my time would be
16 freed up to go do the things that we want to be
17 doing instead.

18 Q Let me go to the last bullet point there
19 before paragraph 143, and it says that part of
20 what's happening now is you have to divert
21 Coalition's organizational personnel and financial
22 resources away from Coalition's established ongoing
23 efforts to market Coalition to new members and
24 thereby grow Coalition's membership.

25 Do you see that?

1 A I do.

2 Q And if this litigation was over, would you
3 be able to begin again marketing Coalition to new
4 members and thereby grow the membership?

5 A Yes, we would.

6 Q So let me turn next to the first
7 supplemental complaint. Just a second.

8 (Exhibit Number 4 was marked for
9 identification.)

10 BY MR. TYSON:

11 Q I've marked as Exhibit 4 the first
12 supplemental complaint of plaintiffs Coalition for
13 Good Governance and others.

14 Do you see that?

15 A I see that, yes.

16 Q This is document 628. So let me turn to
17 the standing portions here, begin with the
18 allegations made about the Coalition specifically.

19 So in paragraph 218, the Coalition alleges
20 that the use of the -- well, these particular
21 statutes being in force, 21-2-300(a)(2) and
22 21-2-383(c) require -- and then explains what those
23 are -- I know you asked what those refer to --
24 requiring all polling-place voters to use the
25 Dominion BMD System, then you say that will force

1 Coalition to divert personnel, time, and resources
2 to educating its members and the voting public about
3 how to protect their right to cast a secret ballot
4 and equally effective vote in the upcoming BMD
5 elections, and will impair Coalition's ability to
6 engage in the organization's other projects by
7 forcing it to divert resources to counteract the
8 Defendants' illegal acts.

9 Do you see that?

10 A I do.

11 Q How does the Coalition educate its members
12 and the voting public about how to protect their
13 rights to cast a secret ballot?

14 A Okay. Because of the large touchscreens
15 that basically display people's votes to others in
16 the polling place, what we have taken a lot of time
17 to do, many times informally, sometimes with kind of
18 mass communications, is to encourage people to vote
19 by mail, which is something that as an organization
20 we are not terribly enthusiastic about is voting by
21 mail, but we think it is the better of the two
22 alternatives.

23 And so for purposes of protecting the
24 right to cast an absolutely secret ballot, we think
25 we have been -- we have been telling people that we

1 think that voting a vote-by-mail ballot is best.

2 At other times we have talked to people
3 about -- who have not been able to get their ballot
4 on time or for some reason just been unable to vote
5 by mail, we have shared with them how to go into the
6 polling places at a time in early voting that is not
7 necessarily crowded and then find a private machine
8 to vote on, how it's perfectly fine to ask the poll
9 manager if they can wait until a machine that's more
10 private is available. It's that kind of effort that
11 we have taken to tell people it's perfectly fine to
12 demand a private voting area.

13 Q Do you educate Coalition members
14 differently than the voting public, or is the
15 educational message the same?

16 A The educational message would generally be
17 the same, it's just that we would have more contact
18 with people who are more active members.

19 Q And in this particular document there's
20 not a whole lot of detail about other projects that
21 you are unable to be engaged in. Do you recall
22 submitting a declaration in this case outlining some
23 of those other projects?

24 A I have kind of the vague memory of that,
25 and we may have done it more than once, and

1 certainly every week and every day that goes by that
2 list is going to shift and change.

3 I mean, there are things that happened
4 just this week that are new -- new projects that we
5 have to reject or cannot complete that -- so it's an
6 ever-growing list, I would say.

7 Q Understood.

8 So I think just to help guide our
9 discussion a little bit what I want to introduce as
10 Exhibit 5 a document that was filed in February of
11 2021, document number 1071-2.

12 Do you see that?

13 (Exhibit Number 5 was marked for
14 identification.)

15 A I do.

16 BY MR. TYSON:

17 Q This document is titled Supplemental
18 Declaration of Marilyn Marks.

19 A Right. Do you mind reminding me kind of
20 what this was part of? I've kind of forgotten what
21 we were doing in February of 2021.

22 Q Others can correct me if I'm wrong, but I
23 believe this was around the first time Judge
24 Totenberg asked us to present evidence on standing
25 specifically after the 2020 elections.

1 Does that help with the timeline?

2 A It does.

3 MR. MCGUIRE: Excuse me, Bryan. Do you
4 want to let her pull it up and just flip through it
5 on her own screen so she can see it?

6 MR. TYSON: Certainly. Yeah.

7 A If you don't mind, can I take 30 seconds?
8 Building security is trying to reach me, and it's
9 because I forgot to return a phone call, so can we
10 take one minute off the record while I do that?

11 BY MR. TYSON:

12 Q Certainly.

13 A Thanks.

14 THE VIDEOGRAPHER: Time is 12:23 p.m. We
15 are off the record.

16 (Recess 12:23-12:24 p.m.)

17 THE VIDEOGRAPHER: The time is 12:24 p.m.
18 We're on the record.

19 A Mr. Tyson, do you mind repeating what you
20 said to me when I got distracted by building
21 security there?

22 BY MR. TYSON:

23 Q Certainly.

24 A Okay.

25 Q And, again, that's totally fine.

1 So my recollection is that February of
2 2021 was around the first time Judge Totenberg asked
3 us to submit evidence on standing issues following
4 the 2020 elections. And you can look at this on
5 your screen, but the general topics in your
6 supplemental declaration, as you can see on the
7 exhibit, are CGG activities and diversion of
8 resources, there was tabulation software problems
9 Mr. Hursti referenced in here, tabulation
10 discrepancies and audit failure. I'm only going to
11 ask you about the activities on the first part of
12 this declaration, but does that give you the context
13 you needed?

14 A It does. Thank you.

15 Q So what I'd like to do is just kind of
16 walk through the paragraphs of this declaration to
17 flesh out the activities that CGG is saying that it
18 has diverted resources from and to. And
19 specifically, is this a declaration that you offered
20 regarding the diversion of resources of the
21 Coalition?

22 A Diversion of resources and the other
23 topics that you referenced a while ago.

24 Q Certainly.

25 So starting at paragraph 3, you say that

1 the Coalition for Good Governance was formerly known
2 as the Rocky Mountain Foundation; is that right?

3 A That is correct.

4 Q And did the Rocky Mountain Foundation have
5 a different purpose than the Coalition does?

6 A In the big picture it related to
7 protecting constitutional rights, but its focus on
8 policies were different than what we have moved to
9 starting when we took over the management of the
10 organization in 2014.

11 Q You anticipated my next question. You
12 referenced that the current management of CGG
13 undertook the management in 2014 with primary work
14 focused on election integrity and transparency in
15 Colorado elections, right?

16 A That's correct.

17 Q And who are you referring to when you say
18 the current management of CGG?

19 A It would be Ms. Lisa Cyriacks,
20 C-Y-R-I-A-C-K-S, who is on the board, and Ms. Mary
21 Eberle, E-B-E-R-L-E, who is on the board, and
22 that -- that's who we're referring to here.

23 Q And so prior to 2014, the -- I guess the
24 then Rocky Mountain Foundation wasn't focused on
25 election integrity and transparency in Colorado

1 elections; is that right?

2 A Mr. Tyson, may I go back and make sure I
3 answered your prior question correctly? I'm not
4 sure that I did.

5 Do you mind going back and asking -- and
6 having the court reporter read to me what you asked
7 about the prior organization?

8 Q We can or I can just reask it.

9 A Okay. All right.

10 Q Did the Rocky Mountain Foundation have the
11 same focus on election integrity and transparency in
12 Colorado elections that the Coalition did after
13 2014?

14 A No, that organization -- and we were not
15 part of that management of that organization prior
16 to 2014. While they generally were there to protect
17 constitutional rights, and they were interested in
18 elections, their focus was different than the focus
19 we brought to it when we took over the management in
20 2014.

21 And when I mentioned Ms. Eberle and
22 Ms. Cyriacks, I was talking about the management who
23 came in in 2014 along with me. I was not trying to
24 say that that is the current -- those were the only
25 people still involved -- the only people involved.

1 That's what I was afraid I did not answer you
2 correctly about.

3 Q Got it. Thank you. And I understood it
4 as being this was the group that came in in 2014, so
5 that's --

6 A Yes, that's what I intended to say.

7 Q So you say next in paragraph 4 that after
8 you moved to North Carolina in late 2015, CGG's work
9 began to transition to more geographically diverse
10 projects. Do you see that language?

11 A I do.

12 Q Was that change in 2015 that you
13 referenced a change in mission or just a change of
14 the activities of CGG?

15 A It was a broadening of the geography of
16 our work. I had really stayed busy focused on
17 Colorado, and Ms. Cyriacks and Ms. Eberle both live
18 in Colorado and are very active in election projects
19 and voting rights projects there, and so when I
20 moved to North Carolina I kept a foot in the
21 Colorado camp and began to -- I found work I wasn't
22 looking for in North Carolina when I ran into some
23 of the problems here in North Carolina. And so it
24 wasn't necessarily intentional that we began to
25 broaden our scope, but it kind of happened.

1 Q Okay. And so it was really, I guess, a
2 broadening of activities -- the geographic scope of
3 activities; is that a fair way to characterize it?

4 A That is correct because much of the
5 activity was generally around election security,
6 open -- election transparency, open meetings and
7 that sort of thing.

8 And then when I came to North Carolina, I
9 didn't actually expect that I was going to be
10 staying in North Carolina, but life has its way of
11 giving you surprises, and I ended up -- I was really
12 continuing to work quite a lot in Colorado when I
13 first came here, and then the work began to
14 transition to North Carolina, South Carolina,
15 Georgia, and then Georgia has sucked up a lot of the
16 energy.

17 Q So I want to ask you about some of the
18 things that you reference. You first referenced a
19 significant project in paragraph 5 to undertake
20 administrative challenges to the lack of a secret
21 ballot in early voting statewide.

22 A Yes.

23 Q And I'm assuming the administrative
24 challenges language means that CGG's work was not a
25 lawsuit, but it was some other administrative

1 process; is that correct?

2 A Yes, that is correct. The administrative
3 challenges took the form of informal complaints to,
4 for example, the Charlotte-Mecklenburg Election
5 Board, and as I recall then taking it further to I
6 believe -- I took that one to the North Carolina
7 State Board of Elections, and I believe that the
8 secret ballot was included in a what's called here
9 in North Carolina an election protest, and that's
10 what we mean by administrative challenges.

11 Q The second paragraph -- the second
12 sentence, I'm sorry, of paragraph 5 references a
13 challenge to Charlotte-Mecklenburg County's failure
14 to conduct a required post-election audit on the
15 2016 presidential election.

16 Do you see that?

17 A I do.

18 Q Was that a lawsuit or was it some other
19 challenge?

20 A No, it's called an election protest, and
21 you first protest a complaint or a violation with
22 your County Board of Elections, and then it's got an
23 escalation -- "it" meaning the North Carolina
24 procedures have an escalation to the State Board of
25 Elections, and -- where you bring a protest to them,

1 and then those are kind of typically the two stages
2 that you would have before it would actually turn to
3 an election contest or litigation.

4 Q In paragraph 6 we reach the state of
5 Georgia in early 2017. Do you see that language?

6 A I do, yes.

7 Q And so at the end of that paragraph you
8 state that you began to redirect resources and time
9 to focus on Georgia's election security issues; do
10 you see that?

11 A I actually don't see that.

12 Q Right here.

13 A Yes, I do. Sorry.

14 Q So when you say you began to redirect
15 resources and time, was the Coalition doing that, or
16 were you personally doing that?

17 A Well, both because I was certainly talking
18 to my directors about that at the time, and they
19 were very supportive of -- as much as they wanted to
20 continue the projects in Colorado, there was --
21 among people who follow election security work
22 nationally who are kind of in the subject matter
23 experts and actual experts, there is just a strong
24 understanding that Georgia has the weakest election
25 security in the nation.

1 And I resisted -- I totally resisted this
2 idea of diving into Georgia for a long time and just
3 got so many requests after the 2016 election that I
4 spend -- spend resources there that it was with the
5 approval of the board, which was smaller than it is
6 now, but it was with the approval of the board and
7 other friends that I had in Georgia from the time
8 that I lived in Georgia that urged me to redirect
9 resources to Georgia.

10 Q And those resources that you redirected
11 were being used in North Carolina, or were they
12 being used somewhere else?

13 A Well, we were wrapping up some projects in
14 Colorado as I recall, and in -- many of these things
15 would have been not necessarily heavy financial
16 resources, but instead my time.

17 Both my father and my mother had just
18 passed about this time, and so there were just lots
19 of demands on my time and changes that were going
20 on, and we were not -- as I recall we were not
21 involved in any type of litigation at that point.

22 Q Were the Colorado projects -- and I'm
23 sorry about the loss of your parents around that
24 time. Were the Colorado projects that you were
25 wrapping up litigation oriented, or were they some

1 other work?

2 A I think we had already wrapped up our last
3 litigation. I think we may have been exploring -- I
4 think we might have been looking at the --
5 Colorado's process of selecting a new voting
6 equipment vendor as one of the things that I believe
7 we were working on about that time.

8 Q Let me move to paragraph 7. You start
9 outlining CGG's first efforts in Georgia there. Do
10 you see that?

11 A I do.

12 Q And so the first thing you reference is a
13 petition for reexamination of the DRE voting system;
14 is that right?

15 A That's correct.

16 Q And then a lawsuit seeking to remove DREs
17 from use in the Ossoff/Handel Congressional District
18 6 runoff, correct?

19 A Correct.

20 Q Then you reference the Curling lawsuit in
21 July 2017. You see that?

22 A Yes.

23 Q Now, what I want to understand from kind
24 of CGG's activities in Georgia specifically is the
25 Curling lawsuit and the lawsuits that you reference

1 in paragraph 8, are those all of CGG's activities in
2 Georgia, or are there other activities CGG
3 undertakes unrelated to litigation in Georgia?

4 A Oh, my goodness, of course. Excuse me.

5 MR. MCGUIRE: Marilyn, just give me time
6 to object to form.

7 THE WITNESS: Sorry, didn't hear you.

8 MR. MCGUIRE: Object to form.

9 You can answer.

10 BY MR. TYSON:

11 Q You can answer.

12 A What I was referencing in 7 and 8 with
13 respect to lawsuits was certainly not all of our
14 election-related activities.

15 It was -- those appear to be trying to lay
16 out what we did on the litigation front, but
17 certainly we are always trying to involve ourselves
18 in other types of education, helping voters,
19 administrative issues many times around things like
20 open meetings, open records with respect to county
21 election administration or state at times but that
22 do not necessarily turn into or haven't -- vast
23 majority of that stuff is not litigation related.

24 Q And were those types of non-litigation
25 projects underway beginning in 2017 in Georgia?

1 A As opposed to 2016?

2 Q Just --

3 (Simultaneous speaking.)

4 Q I'm sorry.

5 A Are you saying were those things happening
6 in 2017?

7 Q Yeah. What I'm trying to understand --
8 let me be more specific here. So in paragraph 6 you
9 reference that in early '17 group started to expand
10 to Georgia, then you say the Coalition's first
11 efforts in 2017 were petitioning Secretary Kemp for
12 a reexamination.

13 My question is: Were -- was CGG engaged
14 in non-litigation efforts in Georgia in 2017 during
15 the period you're referring in paragraphs 6 and 7?

16 A Can you go back to 6 for a moment?

17 Q Certainly.

18 A Yes. And when I stated in my declaration
19 there first efforts in Georgia in 2017, I guess I
20 should have said more like first public efforts.
21 Certainly that wasn't the first thing we did in
22 Georgia. We made ourselves familiar with the
23 problems of the DRE machines, some of the complaints
24 that people were having about votes being flipped on
25 touchscreens and that sort of thing.

1 So this would have been the first kind of
2 major public outcropping of the work that we had
3 been doing, but -- and particularly as we had been
4 watching that 6th congressional district planning
5 and the race take place and watched the election
6 administration process there, that was about the
7 time we really began to focus on Georgia.

8 Q Just so --

9 A Excuse me. I'm sorry.

10 Q Go ahead.

11 A I remember having talks with both
12 Republicans and Democrats in Georgia early on about
13 poll watching and how to get more poll watchers for
14 that April and June election in 2017, and I remember
15 how it seemed that poll watching wasn't a very
16 organized activity in Georgia, and we spent a good
17 bit of time, I remember having many conference calls
18 about whether or not candidates and the parties even
19 wanted to do poll watching, and that very much
20 surprised me.

21 So I remember spending a lot of time
22 talking about transparency and citizen oversight in
23 early 2017.

24 Q Thank you.

25 And just again so I understand the

1 sequence, you said you had to redirect resources to
2 Georgia from the projects that you were wrapping up
3 in Colorado; is that right?

4 A Well, I was -- I was also working on
5 projects in North Carolina at that time that began
6 in 2015 and 2016. Excuse me, began in 2015, and
7 there were others that began in 2016.

8 So I would say that we're kind of
9 transitioning during that period from less emphasis
10 in Colorado, more in North Carolina. South Carolina
11 was -- some people in South Carolina were asking me
12 to help them with some things, spent some time in
13 South Carolina as well during this time period.

14 Q Are there projects from Colorado, North
15 Carolina, and South Carolina that you started but
16 were not able to complete because you redirected
17 resources to Georgia?

18 A Yes. We lost momentum on the voting
19 system implementation in Colorado in terms of we had
20 been pretty active in terms of citizens' input as
21 the counties were selecting their voting system, and
22 as I came here to North Carolina and kind of
23 spreading resources too thin, we lost -- and I
24 wasn't able to go to the meetings in person. This
25 was kind of before the days of frequent Zoom

1 meetings and that sort of thing, and I was not in a
2 place that I could run to Denver and testify, and
3 then both of our other board members don't live
4 right there in Denver and easy to get to, so we did
5 not continue the level of participation we had had
6 in the projects for voting system implementation and
7 deployment in Colorado.

8 And then when I came to North Carolina one
9 of the first things that I worked on was the
10 violation of secret ballot for early voting where
11 all of the early voting, whether it was on the DREs
12 or on absentee by mail ballots has an identifiable
13 number on it, which, of course, violates the North
14 Carolina Constitution.

15 So I spent time challenging both my
16 current election board in Charlotte-Mecklenburg as
17 well as the State Election Board on that.

18 Our intention was to do a big education
19 campaign, to do lobbying with North Carolina
20 legislators, and to file administrative challenges
21 and hope that we did not have to file litigation,
22 but that effort really did not continue. I've still
23 got it on the back burner. We haven't solved the
24 problem in North Carolina, and I am committed to
25 getting back to that issue at the first opportunity.

1 Q So let me ask you about in paragraph 8 you
2 reference some other lawsuits CGG has organized.
3 First one challenging the excess rejection of
4 absentee ballots in 2018, does that refer to the
5 Martin case filed against the State and Gwinnett
6 County?

7 A It does.

8 Q And you referenced COVID-related voting
9 infrastructure improvements in 2020. Is that the
10 lawsuit that CGG filed that was before Judge Batten
11 in the 2020 elections?

12 A That is correct.

13 Q And you reference an election contest in
14 2018. Was that the contest of the lieutenant
15 governor's race in the 2018 election?

16 A Yes, it was.

17 Q So in paragraph 9 you then say: The
18 unpredicted complexity and protracted time
19 requirements and expenses of this litigation has
20 required CGG to consistently redirect resources of
21 funding and management and volunteer time away from
22 other desired projects that are of great interest to
23 our board members, members, and donors.

24 Do you see that?

25 A I do.

1 Q And so is it fair to say that the
2 litigation that CGG is involved with is what has
3 caused this redirection of resources?

4 MR. MCGUIRE: Objection to form.

5 You can answer.

6 A It is one of the things that has caused
7 the redirection of resources, but, you know, there
8 are a lot of activities that we are engaged in that
9 relate to the Dominion Voting System, including the
10 BMD component. We were engaged in a lot of
11 activities that are not directed to the litigation
12 support but are directed to education, member
13 communications, talking to county officials, et
14 cetera, related to the Dominion Voting System and
15 audits -- the inadequacy of audits that are, if you
16 will, parallel to the litigation support resources
17 that are required.

18 BY MR. TYSON:

19 Q So in that list you were just beginning
20 of -- one of the other things I heard you say you
21 talked to county election officials, you engage in
22 member education.

23 Can you give me a complete list of the
24 other things that CGG is redirecting resources to
25 and taking away from the desired projects that are

1 of great interest to its board members, members, and
2 donors?

3 MR. MCGUIRE: Objection to form.

4 A I am sure that I cannot give you a
5 complete list.

6 BY MR. TYSON:

7 Q Can you give me general categories of
8 activities?

9 A I can. I can. And you're asking me about
10 activities that we are -- in fact -- in fact, do you
11 mind asking the question again so I have it exactly
12 right?

13 Q Certainly. You testified that the
14 litigation was one of the activities that required
15 CGG to redirect resources of funding and management
16 and volunteer time away from desired projects. What
17 are other categories of activities that require CGG
18 to redirect resources?

19 A Okay. And we are talking about other
20 types of activities that are redirecting resources,
21 but those activities are -- and I'm asking really
22 here -- those activities are because of and focused
23 on Dominion -- Georgia Dominion Voting System and
24 BMD component, is that -- okay.

25 Q Yes.

1 A So, yes, it would be things like our
2 communications with election officials at the county
3 level on issues like, you know, ballot secrecy, our
4 concerns for ballot secrecy and what the counties
5 should be doing about that.

6 It is obviously -- I think we mentioned
7 before talking with members, talking with also,
8 quite frankly, political parties and candidates
9 about the implications of things like ballot secrecy
10 or poll watching.

11 I've spent a good bit of time talking with
12 candidates, political parties, would-be poll
13 watchers about issues around trying to be a poll
14 watcher with the problem -- with the threats of
15 SB202 of trying to make sure that you are not
16 charged with accidentally or -- when you -- if you
17 accidentally see the screen, you know, how can you
18 try to protect yourself from being claimed to have
19 been looking at the screen.

20 So in talking with potential poll
21 watchers, voters, election officials about the
22 problems with machine setup for ballot secrecy, that
23 would be an example.

24 We've also done things like webinar
25 education directed to election officials at the

1 county level but welcome to the public. We've also
2 done some -- I was going to say seminar for press,
3 but I actually think that was on a different topic,
4 but the -- we are frequently answering questions
5 from voters on do -- what do you recommend? How do
6 we vote? Should we really trust mail ballots?
7 Should we vote on the machines? That is a diversion
8 of resources that we would just as soon not have to
9 deal with. We don't want -- really want to be
10 having to spend our time on those kind of voter
11 education questions.

12 Let's see what else we have done.
13 Certainly we have sent many communications on the
14 subjects related to the Dominion Voting System.

15 We have been involved in analysis of
16 problems of things like double and triple counting
17 that happened in the election not only for purposes
18 of the litigation, but also for purposes of helping
19 take -- helping some of our members and other
20 citizens take complaints to their county election
21 boards that votes were double and triple counted,
22 and they are trying to talk to their boards about
23 what can be done to avoid these kind of problems in
24 the future. So we have been supporting those kinds
25 of efforts.

1 I'm sure there are other activities that
2 are just not coming to the top of my head at the
3 moment, but in general the Dominion Voting System
4 and its lack of controls has caused us to have to
5 spend a lot of time on Georgia problems that we
6 would just as soon not spend.

7 Another thing that I'm thinking about
8 that -- we have gotten a lot of questions on the
9 so-called RLA and the problems with the counting of
10 the votes in the audit, and we have answered so many
11 members' questions about the -- how that audit was
12 put together, what the problems are, how they should
13 be talking to their election officials of their
14 counties about doing voluntary audits.

15 We helped some members in Cobb County and
16 other voters in Cobb County initiate better audit
17 and a voluntary audit for municipal -- a runoff
18 election recently, and it was particularly geared
19 toward let's make sure there is no double and triple
20 counting as we saw in the -- as we saw at the
21 November 2020 election.

22 Q Thank you.

23 So in the categories that you mentioned
24 here, let me just kind of break down a few of them.
25 So you talk about communications with election

1 officials that you have, county election officials?

2 A Yes.

3 Q And those communications are advocating
4 for things the Coalition thinks are good ideas in
5 election administration, right?

6 A Or -- yes, or answering questions, yes,
7 absolutely.

8 Q And the communications with parties and
9 candidates, those are also advocating for what the
10 Coalition believes are best practices in the
11 administration of elections, correct?

12 A That would -- that would be part of the
13 communications, yes. We certainly get a lot of
14 questions about election administration that don't
15 necessarily have to do with advocacy.

16 Q What kinds of questions about election
17 administration do you get that don't have to do with
18 advocacy?

19 A People wanting us to explain things like
20 what are the recount rules; when do I get a recount;
21 when do -- when would I have to go to court to get a
22 recount. That would be an example.

23 So it's just -- you know, we certainly
24 don't hold ourselves out to be election attorneys,
25 but we can try to point people in the right

1 direction.

2 Q Let me move to paragraph 10. You
3 reference that you've had to reduce your active
4 involvement in several important efforts that CGG
5 supports because of the time demands of this
6 litigation.

7 Do you see that statement?

8 A I do.

9 Q And then you go on the rest to say CGG has
10 had to curtail and decline numerous
11 organizational -- organization activities.

12 You see that?

13 A Uh-huh. I'm sorry, yes.

14 Q And then continuing, you list a variety of
15 different projects, and we're not going to go
16 through all of them just for the sake of time, but
17 there's at least some projects in North Carolina
18 that you referenced, correct?

19 A Yes.

20 Q And --

21 A And some of these are now out of date, and
22 others would be added.

23 Q Okay. And some efforts of the New York
24 State Board of Elections, correct?

25 A Yes.

1 Q And some in Colorado?

2 A Yes.

3 Q I know you referenced that this is --
4 paragraph 10 is not a complete list of the projects
5 that the Coalition is unable to engage in, but it's
6 at least a substantial list of the projects
7 Coalition wouldn't be able to engage in?

8 A It is a list. You know, as I said, this
9 is now a year out of date, and some of these issues
10 have been resolved positively and negatively without
11 our --the level of involvement we wish, and at least
12 as many more have been added where we have either
13 done a minimal amount of what we were asked to do
14 that we would have been -- excuse me, we would have
15 preferred to do or we would have declined all
16 together to participate in things that we would like
17 to be involved in. I mean, I have a long list just
18 from this week.

19 Q If CGG was not involved in the Curling
20 case, could it engage in all the activities that are
21 listed in paragraph 10?

22 A Well, some of them are no longer alive,
23 but we could have engaged more meaningfully in those
24 things, yes.

25 Q When you say "could have engaged more

1 meaningfully" --

2 A Okay, let me take an example.

3 Q Okay.

4 A We had Colorado members in Boulder who
5 asked us to testify by Zoom, to write letters, to
6 call city council members on instant runoff voting.
7 And I was kind of a well-known figure, that's
8 putting it nicely, in Colorado as an opponent of
9 instant runoff voting.

10 The mayor of Aspen race that I told you
11 about when we started talking this morning was done
12 by instant runoff voting, and it kind of went off
13 the rails, and after that, the City of Aspen chose
14 never to use instant runoff voting again.

15 But so -- because of my kind of deep
16 knowledge of what was wrong with instant runoff
17 voting, I was asked to take a very active role in
18 helping our members out there fight Boulder's
19 decision to use instant runoff voting. I could only
20 do a minimal amount of work, and I think I might
21 have made one phone call versus testifying, sending
22 letters, et cetera.

23 Q That inability to fully engage on that
24 particular topic was due --

25 A Yes.

1 Q -- to the demands of the Curling case on
2 you, correct?

3 A Both the Curling case and the other
4 related activities on Dominion BMD system that were
5 not necessarily litigation.

6 Q And you mentioned your RLA work with Cobb
7 County was to help avoid double counting; is that
8 correct?

9 A I didn't mean to say risk-limiting audit
10 if I did say risk -- I meant to say post-election
11 audit if I -- and I was talking with some of our
12 members and other active voters in Cobb County, and
13 I urged them to ask for a tabulation audit after the
14 runoff in a municipal -- I believe it was Marietta
15 municipal election, and I helped them create their
16 ask, and it was partly to make sure that double
17 counting did not take place as it had in Cobb County
18 in the Baker 01 precinct in November 2020.

19 Q And so your role in that was not to work
20 with the county election officials, but to provide
21 information to individuals who wanted to work with
22 those election officials; is that correct?

23 A Yes, yes, I provided them with support,
24 ideas, kind of the how-tos.

25 Q And those were members and non-members,

1 correct?

2 A Yes. It was some people who probably
3 considered themselves members, but, you know, wasn't
4 in some kind of formal member context.

5 Q Let me ask you, if the Coalition received
6 an injunction banning the use of Dominion BMDs, will
7 the Coalition continue to educate its members and
8 educate the voting public?

9 A Can you be more specific? Are you
10 limiting -- like, an injunction just about the BMDs?
11 Do you mind rephrasing the question? It's confusing
12 to me.

13 Q Certainly. So my question is specifically
14 if the Coalition was to receive an injunction
15 banning just the ballot marking devices, would the
16 Coalition continue to educate its members and the
17 voting public?

18 A Regardless of whether or not we receive an
19 injunction about just the BMDs, we will, as long as
20 we're in existence, continue to educate members and
21 voting public about election issues.

22 Q And that's true if CGG received all the
23 relief that it's seeking in this -- in the Curling
24 case, so you win on everything, CGG would continue
25 to educate members and the voting public, right?

1 A On -- it is one of our missions. It may
2 not be about the issues of BMDs or the other relief,
3 but we're not going to go out of business if we got
4 all the relief we're looking for. We would -- we
5 would always be working on educating members,
6 non-members on -- I don't expect all election issues
7 to go away if we got all the relief we're looking
8 for. It would give us much more ability to focus on
9 a broader range of topics at a more local level,
10 which is really where we would prefer to work.

11 Q So next I want to kind of move to
12 categories of resources under this topic to really
13 kind of dig in on. I know we've talked about
14 financial resources that were diverted. What are
15 the other resources that CGG does not have -- sorry,
16 let me start over that again.

17 What are the non-financial resources that
18 CGG has had to divert as a result of the actions
19 it's challenging in this lawsuit?

20 A It's going to be primarily people's time
21 and -- volunteer time and as well as paid time like
22 our interns' pay and -- well, so much goes back to
23 financial resources.

24 For example, we'd get rid of our Logikcull
25 account. Do you know what I mean by our Logikcull

1 account?

2 Q Uh-huh.

3 A We'd get rid of that, free up financial
4 resources. I doubt we would be needing that
5 account, for example. But, you know, it's primarily
6 the hundreds of hours every week that gets spent by
7 our team.

8 Q And does CGG track the hundreds of hours
9 spent every week by your team?

10 A Only for paid interns.

11 Q So in terms of volunteer time, there
12 aren't documents that reflect what time volunteers
13 are devoting to particular activities, right?

14 A Generally not.

15 Q Okay. You say "generally not." Is there
16 any -- is there any document that would reflect the
17 amount of time volunteers were devoting to
18 particular activities?

19 A You know, I have kind of vague
20 recollections of asking some of our volunteers in
21 the last year, hey, keep track of how many hours you
22 spend on that because at some point I'd like to know
23 just how heavily invested we are, but if you ask me
24 exactly what that was, I don't remember.

25 It might have been looking at confirming

1 some of the double- and triple-counted ballots. I
2 think I might have asked somebody to just kind of
3 keep track of your hours as you're doing that
4 because I want to know -- because we've spent
5 hundreds of hours on that issue. But it wasn't a
6 formal time sheet kind of thing like the interns
7 have to do.

8 Q So for volunteer staff, again, I know you
9 said there was some projects maybe where that was
10 the case, but you can't say it was this number of
11 hours that we would not have spent on a particular
12 project, correct?

13 A Not in total. Certainly not. We could --
14 if required we could certainly come up with
15 estimates of the hundreds of thousands of hours
16 we've spent. Not hundreds of thousands. I didn't
17 mean to say -- I didn't mean to slur my words that
18 way. Hundreds or thousands of hours we have spent
19 on these projects, but no, any kind of formal
20 records, that we don't have.

21 Q And so would the Coalition's volunteers
22 take all the time that they are devoting to, say,
23 the double- and triple-counting issue that you just
24 referenced, would they devote all that time to other
25 educational activities if the Dominion system was no

1 longer in use?

2 A Well, I certainly cannot speak for exactly
3 how they would use their own choice of volunteer
4 time, but their full indications to me are, damn, I
5 wish I could work on the improvement of the website;
6 I would like to be out re-communicating with all of
7 those people who signed our petition for
8 reexamination.

9 They've told me other things they would
10 prefer to be doing, so I assume that they would do
11 them, but I cannot commit to you that they would
12 spend exactly X number of hours doing that should
13 the opportunity take place. They've indicated that
14 there are things that they would prefer to be
15 working on instead.

16 Q Is it correct that all of those other
17 activities they would be working on would still
18 relate to the administration of elections?

19 A No, not necessarily because one of the --
20 one of the core issues that we really want to work
21 on and we've done very little on is open meetings
22 both in Colorado -- Colorado, North Carolina, and
23 Georgia, and we have a lot of things that we would
24 like to do to begin to challenge the many violations
25 of open meeting laws in Georgia and North Carolina

1 at a local level, either municipal or county level.

2 And so I expect that we would be spending
3 a lot of time on that should -- if we were not
4 focused on the Dominion system issues.

5 Q Has Coalition been involved in open
6 meetings issues at any point in its history?

7 A Yes, in our predecessor organization we
8 have back in Colorado, and I believe -- I have vague
9 recollection of making some challenges in South
10 Carolina, although I believe it was done in a -- in
11 an oral challenge in North Carolina. I don't know
12 that I can come up with the specifics for you on
13 that, but, yes, open meetings have long, long been
14 an interest, something we have been involved in.

15 We have not -- we have not done any
16 litigation on them, but we have threatened
17 litigation and been able to resolve some open
18 meetings issues back in Colorado by threatening
19 litigation after all administrative efforts were
20 kind of exhausted, but generally I don't believe
21 we've done any litigation on that.

22 Q Do you have an estimate of how much of the
23 volunteers' time that is currently being utilized by
24 the Coalition is devoted to this particular case,
25 the Curling case?

1 A I have two questions about your question.
2 Are you asking me how much of their seven days a
3 week is devoted to the case itself as opposed to
4 other CGG activities or --

5 Q I'm not. Let me ask the question a
6 different way.

7 A All right.

8 Q So in terms of the activities that the
9 volunteers are engaged in as part of their work as
10 volunteers for CGG, do you have an estimate of the
11 percentage of that time that is devoted to the
12 Curling case?

13 A This is just going to be a wild guess.
14 I'm going to say that probably 50 percent of it
15 would be related to the case. Probably 30 percent
16 of it would be related to other Dominion Voting
17 System and audit issues that are not in direct
18 support of the litigation, and the remainder on
19 other types of election administration activities.

20 For example, as you probably know we often
21 go to -- haven't had a chance to do this recently --
22 State Election Board with proposed rules about
23 election administration. Some of them would be BMD
24 related; many of them would not.

25 We didn't make it yesterday. We had plans

1 to promote some rules that we wish they would
2 promulgate having to do with canvassing, and we
3 didn't get them pulled together in time to submit to
4 the board.

5 Q So just kind of fleshing out a little bit,
6 so the kind of 20 percent of other types of
7 election-related activities, is that focused
8 primarily on advocacy for things the Coalition would
9 like to see in Georgia elections?

10 A That would be -- yes, that would -- it
11 would be primarily that or answering questions.

12 Our members tell me that they're hearing a
13 lot from candidates right now with questions about
14 everything from how to -- how do the BMDs really
15 work; can I really count on them; what should I have
16 for poll watchers.

17 So there's -- you know, do you consider
18 that a real formal education program, no, but we're
19 kind of here to try to answer questions that have to
20 do with the BMD system, the Dominion system, and
21 other related election activities. A lot -- we get
22 a lot of questions about poll watchers.

23 Oh, the other thing that we are working on
24 that we are getting a lot of questions about right
25 now is House Bill 1464 which includes ballots as

1 public records which we initiate -- we helped
2 initiate that. And then there are, I'm sure you
3 probably know, security chain of custody issues in
4 that bill as well as poll watcher regulations in
5 that bill, and we've been getting a lot and fielding
6 a lot of questions about that and been asked to
7 prepare some amendments.

8 So that -- and you can't really divide it
9 up into exactly where does that cross over into BMD,
10 how much percentage of time did you spend talking
11 about the BMD portion versus more generally poll
12 watchers.

13 Q Thank you. That's helpful.

14 I'm going to move next to the 990s. Is
15 this a -- do you want to take a break at this point,
16 Ms. Marks, or anybody?

17 A I'm fine. Up to you guys.

18 MR. TYSON: Rob, are you good?

19 MR. MCGUIRE: It might be good to take a
20 break if you think you're going to go for a while.

21 MR. TYSON: Yeah, it is going to be a
22 little while on the 990s, so take 5, 10 minutes?

23 MR. MCGUIRE: Yeah, can we, please?

24 MR. TYSON: Yeah, how long you want?

25 MR. MCGUIRE: Five is fine.

1 MR. TYSON: Let's do five minutes.

2 THE VIDEOGRAPHER: The time is 1:20 p.m.

3 We're off the record.

4 (Recess 1:20-1:30 p.m.)

5 THE VIDEOGRAPHER: The time is 1:30 p.m.

6 We're on the record.

7 BY MR. TYSON:

8 Q Thank you, Ms. Marks.

9 So what I wanted to do next was continuing
10 on topic 1 and work through the 990s. I know you
11 referenced you looked at those in preparation, and I
12 had some questions about them as well.

13 So just to get us started in your Exhibit
14 Share as Exhibit 6. You should have the 2017 990-EZ
15 filed by Coalition.

16 (Exhibit Number 6 was marked for
17 identification.)

18 BY MR. TYSON:

19 Q Do you see that?

20 A I do.

21 Q And the Coalition is a 501(c)(3)
22 organization, right?

23 A That is correct.

24 Q It filed a Form 990 for each year; is that
25 right?

1 A That is correct. I don't think we have
2 completed it for 2021.

3 Q But the Coalition has filed a 990 for
4 2020, correct?

5 A Yes.

6 Q So what I want to do just kind of walk
7 through a few questions on each of these 990s, and,
8 I guess, can you kind of summarize in your own
9 words -- let me ask this: Are you involved in
10 preparation of the 990s for the Coalition for Good
11 Governance?

12 A No, not in the preparation of them.

13 Q Are you involved in the review of them
14 before they're filed?

15 A I do a very high-level review, and
16 particularly sometimes as it relates to talking
17 about our progress on projects, but our CPAs really
18 prepare the details of the -- of the 990.

19 Q And when you said earlier you reviewed the
20 990s to get ready for topic number 1, why were the
21 990s documents that you reviewed for this topic?

22 A Oh, just a moment. My screen went out.
23 Hold on. Okay.

24 I reviewed the 990s for, I believe, the
25 question about what the total expenditures were,

1 which I believe is a different topic on down the
2 line, number 8.

3 Q Okay. Well, let me ask, so we're still,
4 obviously, on topic 1 working through --

5 A Okay.

6 Q -- the diversion of resources, so I wanted
7 to ask a few questions about this.

8 So, first of all, if you go to page 2,
9 part 3, the statement of program service
10 accomplishments, do you see that?

11 A Uh-huh.

12 Q And there's then three lines, 28, 29, 30,
13 and 31, and then a total in number 32. Do you see
14 that?

15 A I do.

16 Q And so the Coalition listed program
17 service accomplishments in lines 28, 29, and 30 but
18 didn't list anything for other program services on
19 line 31, correct?

20 A That's correct.

21 Q So this gets a little confusing because
22 line 28 references attachment 5, so I'm going to
23 move down to the attachment 5, and then you see it
24 says on page 14 program service accomplishment 1?

25 A Yes, I do see that.

1 Q And the statement there is: Advocating
2 for voters' rights to a verifiable election, CGG
3 litigated in federal court Northern District of
4 Georgia against Georgia's use of an unverifiable
5 paperless touchscreen system and educated Georgia
6 voters on the importance of using an election system
7 that either includes paper ballots or creates a
8 paper trail.

9 Do you see that?

10 A I do.

11 Q Is that program service accomplishment
12 referring to the Curling case?

13 A That particular one is referring to the
14 Curling case.

15 Q And program service accomplishment 2
16 there, attachment 6, statement that is: Worked to
17 educate voters on the importance of election
18 security using the example of the Georgia special
19 election CD6 and the exposing vulnerability of the
20 KSU Center for Election Systems, Georgia was one
21 state identified by the NSA where voter registration
22 systems were compromised and vulnerable to hacking.

23 Do you see that?

24 A I do.

25 Q Is that program service accomplishment

1 also referring to the Curling case?

2 A Well, the Curling case is one of the
3 things that would have been encompassed by that
4 statement.

5 Q Okay. Let me go -- ask about line 30
6 then. The third program service accomplishment is:
7 Supported rights of all citizens to access election
8 records; paid for voting systems computer experts to
9 identify and testify on security lapses in the
10 Georgia elections system.

11 Do you see that?

12 A I do.

13 Q And that line -- is that line also
14 referring to the Curling case?

15 A I believe that that was probably referring
16 to what we call -- and, Mr. Tyson, I did not try to
17 go delve into exactly which action this would have
18 been, so I'm telling you to the best of my
19 recollection, which could be wrong here, but --
20 without checking with accountants, but what I
21 believe that may be referring to is what we call
22 Curling 1 that was an action we filed in May of
23 2017, I believe it was May of 2017, in Fulton
24 Superior Court.

25 Q Was that lawsuit also challenging the use

1 of touchscreen voting systems?

2 A It was.

3 Q So let me ask you on the questions here in
4 part 4, there's a question here about section
5 501(c)(3) organizations only and asking if the --
6 line 47, did the organization engage in lobbying
7 activities or have a section 501(h) election in
8 effect during the tax year, and the box is checked
9 for no. Do you see that?

10 A I do.

11 Q Has CGG -- well, let me ask first: Did
12 CGG advocate for the passage or defeat of any
13 legislation of the Georgia General Assembly in 2017?

14 A I don't believe so.

15 Q Do you know if CGG has ever advocated for
16 the defeat or passage of legislation in the Georgia
17 General Assembly?

18 A We have, yes. A minimal amount of our
19 resources are devoted to that, but we have.

20 Q Let me mark the next 990 here. I want to
21 look next at 2018.

22 (Exhibit Number 7 was marked for
23 identification.)

24 BY MR. TYSON:

25 Q I've marked as Exhibit Number 7 the 2018

1 990. You see that?

2 A I do.

3 Q So I first want to go to again looking at
4 the program service accomplishments, line number 2
5 says, did the organization undertake any significant
6 program services during the year which were not
7 listed on the prior Form 990 or 990-EZ, and the box
8 is checked as no. Do you see that?

9 A I do.

10 Q And the next line indicates, did the
11 organization cease conducting or make significant
12 changes in how it conducts any program services, and
13 the box is checked no, correct?

14 A Correct.

15 Q Is it correct to say that CGG was engaged
16 in the same activities in 2018 as it was in 2017?

17 A Generally, yes, and I -- I think we would
18 look back to part 3, item 1 up there above your
19 cursor that generally our activities have remained
20 under that umbrella, but, of course, every single
21 day there's something slightly different about our
22 activities from the prior day.

23 Q Certainly.

24 So I want to then look -- you have in
25 lines -- line 4 asks again for program service

1 accomplishments, and all three, 4A, 4B, and 4C all
2 say, see additional data. Do you see that?

3 A I do.

4 Q Let me just to expedite the process here
5 go down to page -- right here, additional data is
6 listed at the top of page 12, I believe it is, and
7 if you could just read through 4A, 4B and 4 -- 4A
8 and 4B, I'm sorry, do both of those items refer to
9 the Curling case?

10 A Do you want me to read them aloud?

11 Q Or you can just read them -- review them.

12 A Okay. All right. Just a moment.

13 So item 4A, part of that is the Curling
14 litigation, but also the education part would not be
15 litigation. It's still related to touchscreen
16 voting systems, but I thought your question was
17 asking me if this was referencing the Curling
18 litigation, and I'm saying in part it is.

19 Q Okay.

20 A And line 4B, that looks to be the election
21 contest related to lieutenant governor in 2018. Is
22 that '18? Yes. And then there would have been a
23 lot of voter education that was parallel to that
24 issue, not necessarily part of that litigation.

25 Q Both 4A and 4B relate to the use of

1 touchscreen voting systems, correct?

2 A Yes.

3 Q Okay. And in 4A, at the end of that you
4 indicate, educating Georgia voters on the importance
5 of using an election system that includes either
6 paper ballots or creates a paper trail.

7 Doesn't Georgia's Dominion system fall
8 within that category?

9 A We certainly should have said something
10 like an auditable paper trail, but it would not --
11 it does not fall in the category of what was
12 intended to mean a verifiable paper ballot.

13 Q And then 4C references a challenge to
14 discriminatory policies on absentee ballots. Is
15 this referencing the Martin case that we discussed
16 earlier?

17 A It is referencing the Martin case, and it
18 is also referencing the type of work that we did
19 prior to that for both education and trying to get
20 others to make the challenge instead of us and
21 research around the issue.

22 So yes, it is a litigation and other
23 things that were related to, in particular,
24 Gwinnett's method of rejecting mail ballots.

25 Q And so it's correct then that each of the

1 program service accomplishments listed on this 990
2 are, at least in part, litigation, correct?

3 A Yes, in part, that is true.

4 Q Let me take us back up to page 9. I'll
5 try to zoom this in a little bit. It'll be easier
6 to see.

7 So on part 8, Statement of Revenue, do you
8 see this language?

9 A I do.

10 Q And so there's various categories of
11 things -- of ways that money comes to the
12 organization, and there's no amount indicated for
13 membership dues, right?

14 A Correct.

15 Q And the only line item for revenue is all
16 other contributions, gifts, grants, and similar
17 amounts, right?

18 A Sadly so.

19 Q Then looking at page 10, part 9, Statement
20 of Functional Expenses, column A is Total Expenses,
21 column B is Program Service Expenses, and I wanted
22 to ask first why in 11B for legal you have \$189,792
23 and all of that is part of the Program Service
24 Expenses, correct?

25 A Uh-huh. Yes.

1 Q Would all of those legal payments be
2 related to either the Curling case or the Martin
3 case?

4 A No.

5 Q What other legal expenses would have been
6 covered in this period?

7 A I think that there were some legal
8 expenses related to getting Mr. McGuire's help in
9 North Carolina looking at some of the ballot secrecy
10 and some of the voting system security issues there.
11 And then did you actually say the lieutenant
12 governor case as you were mentioning what these
13 legal fees related to and legal services?

14 Q Apologize, I did not. And that's correct,
15 that was also in 2018.

16 A And there may have been some other
17 miscellaneous legal expenses, but I'm not
18 remembering them right now. I looked at total
19 expenditures in my preparation for this deposition.
20 I did not try to look at detailed expenditures by
21 category.

22 Q Certainly. Okay. Well, that's helpful.

23 On this form, though, the total program
24 service expenses versus management and general
25 expenses we have \$189,792 for program services and

1 \$3,289 for kind of general and management services;
2 is that right?

3 A Yes, I think so.

4 Q Let me ask one more question about this
5 one. Going to schedule A, part 2 that shows
6 contributions over time.

7 A Yes.

8 Q It looks like 2016 there were no
9 contributions to the organization; is that right?

10 A That is what this form says. Do I
11 remember, you know, whether or not that's -- I
12 assume it's accurate.

13 Q Okay. And 2017 was the first six-figure
14 year of contributions to CGG, right, based on this
15 form I should say, based on --

16 A Based on this, yes, because there was a
17 six-figure year, which I thought was 2014. Maybe it
18 was 2013. But, yeah, on this form, 2017 was the
19 first year that there was a six-figure amount.

20 Q And CGG raised more money in 2018 than it
21 did in 2017, right?

22 A That is correct.

23 Q Let's take a look at 2019.

24 (Exhibit Number 8 was marked for
25 identification.)

1 BY MR. TYSON:

2 Q I've marked as Exhibit 8 the 2019 990. Do
3 you see that?

4 A I do.

5 Q And on this form just quickly for lines 2
6 and 3 that we discussed earlier on changes in
7 programs, the answer to both of those is no,
8 correct?

9 A Correct.

10 Q And we're back to additional data for 4A,
11 4B, and 4C, so let me get down to where that is.
12 And the way I read these three is that the program
13 services are basically the same in 2019 as they were
14 in 2020, Curling and some other activities in line
15 4A, Curling, maybe something else in 4B, and Martin
16 in 4C.

17 Can you just review those and see if that
18 is a correct statement?

19 A I will.

20 Yes, with the understanding that those are
21 three places where we spent a lot of money, but
22 certainly not all of the things that we were doing.

23 Q Let me look quickly again back to
24 statement of revenue for 2019, \$365,904 through
25 contributions, gifts, grants, and similar amounts,

1 correct?

2 A Correct.

3 Q And for program expenses, the program
4 service expenses on legal fees were \$369,346,
5 correct?

6 A Correct.

7 Q And the total -- what do we call this
8 category -- management and general expenses for 2019
9 was 34,457, correct?

10 A That is correct.

11 Q Do you know -- I understand that you
12 didn't look at this specific set of categories here,
13 but do you know just on a personal knowledge basis
14 whether the travel and office expense amounts were
15 related to litigation at all?

16 A I'm thinking.

17 I'm sorry, I don't know, as we sit here,
18 whether they were or not. And it may have been a
19 mix.

20 Q That's totally fine. I know you didn't
21 review that specifically so I didn't want to ask you
22 in your 30(b)(6) capacity about that.

23 A Thank you.

24 Q Let me next mark another exhibit here.
25 Can you see this is a document Notice of Filing

1 Declaration from the Coalition for Good Governance
2 versus Raffensperger case; do you see that?

3 A Yes.

4 Q And do you recall that you provided a
5 declaration in that case about the Coalition's
6 diversion of resources in 2020?

7 A Yes.

8 Q And is this Exhibit 9 that declaration?
9 (Exhibit Number 9 was marked for
10 identification.)

11 A At least it's the -- it's the -- now
12 you're showing the declaration, yes.

13 BY MR. TYSON:

14 Q And that was document 42 in that case.

15 I just wanted to ask a couple of
16 questions. You indicate in paragraph 6 that: The
17 diversion of resources has continued since the
18 complaint was filed. For example, in order to meet
19 the requirements of this litigation I was forced to
20 reject the request by North Carolina-based Coalition
21 members and voting rights groups to help design and
22 plan drive-through voting options which I had
23 initiated several weeks ago.

24 Do you see that?

25 A I do.

1 Q That's one of the items that you listed in
2 your declaration of what you were unable to do
3 because of the Curling case, right?

4 A Yes.

5 Q And whether it was the -- this particular
6 Coalition case before Judge Batten or the Curling
7 case, it was ultimately the resources demanded of
8 the lawsuits that required the rejection of that
9 particular North Carolina request, right?

10 A I would say not just the litigation
11 requirements, but the other type of ancillary
12 resource drain caused by -- in the case we're
13 talking about right here, SB202, or the use of the
14 Dominion Voting System, not all necessarily or not
15 at all, just the litigation support expenses.

16 You know, this would relate to things
17 we've already talked about, education and such other
18 activities as that that are not directly litigation
19 support.

20 Q Okay. In paragraph 8 you reference
21 another request from North Carolina members, work in
22 paragraph 9 and South Carolina, other types of the
23 thing the Coalition would have done if not for that
24 CGG case -- I'm sorry, the case before Judge Batten,
25 correct?

1 A That's correct.

2 Q And if the Coalition was not filing the
3 Curling case or the case before Judge Batten it
4 would have additional time to spend on other
5 activities, correct?

6 A That's correct.

7 Q So let's turn to another declaration from
8 this case. Do you recall offering a declaration
9 involving the attorneys' fees that the Coalition is
10 seeking in this case?

11 A Yes, some time ago.

12 Q Okay. So this is a 342-page document, so
13 I'm --

14 A Which I didn't -- which I did not review
15 in preparation for this -- for this deposition.

16 Q And thankfully, I'm not going to ask you
17 about all 342 pages.

18 A Good.

19 (Exhibit Number 10 was marked for
20 identification.)

21 BY MR. TYSON:

22 Q First, let's look -- this is document 630
23 filed in October of 2019, and it's Coalition
24 Plaintiffs' Detailed Specification in Support of
25 Motion for Attorneys' Fees.

1 Do you see that?

2 A Yes.

3 Q So I'm going to take us to page 283. Let
4 it have a chance to catch up.

5 A All right.

6 Q So this is titled Declaration of Marilyn
7 Marks.

8 Do you see that?

9 A I do.

10 Q Okay. And so in this declaration you made
11 several different comments about how the Coalition
12 goes about spending its resources, and that's what I
13 want to dig into of what's going on here.

14 First, in paragraph 9 you indicate that:
15 The Coalition receives frequent requests to assist
16 in election technology controversies across the
17 country. We decline involvement in the vast
18 majority of the requests because of the almost
19 impossible task of recruiting counsel with adequate
20 subject matter expertise. A long learning curve
21 required for counsel in voting systems litigation
22 makes most such cases impractical to pursue.

23 Do you see that?

24 A I do.

25 Q So what method, if any, does CGG use to

1 determine which requests for assistance it rejects
2 due to the difficulty of recruiting counsel and
3 which it rejects due to the lack of resources to
4 fulfill that request?

5 A You know, I don't know that you could ever
6 parse that out in any type of objective way, you
7 know? It's -- if the expertise was readily
8 available and a lot of people had that expertise it
9 would probably be easy to recruit attorneys to serve
10 in the capacity of helping challenge election
11 technology, election technology policy
12 controversies. So I'm not sure how I would ever
13 parse that out.

14 Q And I guess what I'm trying to understand
15 is there were obviously projects you didn't engage
16 in that you've testified were due to a lack of
17 resources. Here you're indicating you don't engage
18 in some projects due to the difficulty of counsel.
19 I'm just trying to understand how you tell the
20 difference for CGG.

21 A How do we tell the difference? Let me see
22 if I can give you a recent example. We were asked
23 to get involved with the new Internet voting bill in
24 DC, and -- Washington, DC, and, you know, would we
25 consider helping litigate against that, and right

1 now we don't even have time to write a letter, which
2 I've had to decline the ability to get involved at
3 all, and so -- because of this litigation and other
4 work we're having to do around the Dominion Voting
5 System.

6 So as we respond to a request like that,
7 how much -- how much of it is because there are not
8 free lawyers readily available versus just
9 inadequate resources of time and money, I don't know
10 that I can answer that.

11 If Rob McGuire were standing by saying,
12 hey, look, I'd really like to work pro bono on an
13 Internet voting case, you got any work for me, I'd
14 probably say, yeah, go to it. Go to DC.

15 Q That helps. Thank you.

16 Let me go to paragraph 24, and this is a
17 section entitled Coalition's Case Management
18 Strategy.

19 Do you see that?

20 A I do.

21 Q And so paragraph 24 you say: In the
22 numerous election-related lawsuits I have organized,
23 I have learned that for a small organization like
24 CGG, litigation like this is only affordable and
25 feasible if CGG provides full-time support to its

1 attorneys.

2 A Yes.

3 Q Assisted by student -- interns paid at
4 student rates, I personally conduct research,
5 investigate facts, interview witnesses, consider
6 strategy, and provide expertise on election
7 administration and voting technology. In doing
8 these tasks, I perform a substantial amount of work
9 generally done by attorneys in similar cases, and by
10 doing so I help my attorneys minimize their own risk
11 as well as minimizing the eventual amount of fees
12 that may be shifted to losing public defendants. I
13 generally solicit my attorneys for ways I can be
14 helpful, and I operate under their guidance by
15 focusing on performing only those tasks that they
16 tell me need to be done and will save them time.

17 So you see that paragraph?

18 A I do.

19 Q Do you still agree with that statement in
20 that paragraph or the statements in that paragraph?

21 A I'm rereading.

22 Q Sure.

23 A I would say when it says performing only
24 those tasks that they told me need to be done and
25 will save time that that shouldn't be read extremely

1 literally.

2 Q Okay.

3 A I end up doing more things than they tell
4 me that need to be done.

5 Q Okay. And so earlier we talked about that
6 you were having to spend 90 percent of your time on
7 items related to this case or more. Part of the
8 reason for that is the way that the Coalition has
9 chosen to litigate this case, correct?

10 MR. MCGUIRE: Objection to form.

11 A Can you tell me what you mean by "chosen
12 to litigate"?

13 BY MR. TYSON:

14 Q So you've titled this section Coalition's
15 Case Management Strategy, and in paragraph 24 you've
16 outlined kind of the approach that you take and your
17 interns take to help litigate the case.

18 A Right.

19 Q And my question is: The reason why you
20 were spending as much time as you are on these cases
21 is, at least in part, due to how the Coalition has
22 chosen to litigate its cases, correct?

23 A I'm not sure that I would -- I would state
24 it that way. You know, the way we would choose, all
25 other things being equal, would be for much bigger

1 teams to be working on the things that I do, but we
2 do not have the resources and the breadth of
3 organization. It is not by choice but by just that
4 is where we are as a matter of fact. There's no one
5 else to do it, and we don't have the resources to
6 expand greatly for legal teams, research folks.
7 It's not by choice, it's just by necessity.

8 Q So, I guess in a perfect world you're
9 saying if you were able to have the attorneys do all
10 the typical attorney tasks you would have more time
11 for other projects of CGG, correct?

12 A Yes, sure.

13 Q Okay. Go down to paragraph 37 next. So,
14 again, further explaining kind of what CGG does, you
15 say in paragraph 37: CGG organizes its litigation
16 activities to be conducted at the lowest possible
17 cost to make the most efficient use of attorney
18 time. All activities that could be done by someone
19 other than very experienced senior attorneys is done
20 by CGG staff or volunteers.

21 See that, right?

22 A Yes.

23 Q And so you'd agree kind of I guess to our
24 perfect-world scenario, if CGG did not utilize its
25 staff or volunteers to conduct these litigation

1 activities, then that staff and volunteer time could
2 be devoted to CGG's other projects, right?

3 A In a perfect world, yes.

4 Q And are you saying in paragraph 37 that
5 the reason for the loss of staff and volunteer time
6 for other CGG projects is this decision to litigate
7 at the lowest possible cost?

8 A No, not really saying that. That would
9 really not be our choice. My choice would be to
10 have the financial resources necessary to put legal
11 team, expert team, support team, research team on
12 without having budgetary constraints have to be an
13 every-minute consideration.

14 So, yes, we made this choice to litigate
15 given the constraints. It's not that we chose to
16 have, oh, let's just do this the cheapest way we
17 possibly can; it's let's do this the only way we
18 can.

19 Q Let me ask one more question about this.
20 In paragraph 49 you say: This approach to
21 economizing has permitted Coalition's attorneys to
22 be efficient and generally only engage in activities
23 requiring their technical and litigation expertise.
24 It has, however, not been without its price, for
25 these efforts have diverted significant resources of

1 the organization, in both time and money, away from
2 other projects.

3 Do you see that?

4 A Yes.

5 Q And so you'd agree that this litigation is
6 what has caused the diversion of significant
7 resources of the organization away from other
8 projects, right?

9 A It's one of the things that has, yes.

10 Q You say that it diverted significant
11 resources of the organization, you refer to these
12 efforts have done that. Can you quantify how much
13 of the diversion was due to the efforts you
14 reference in paragraph 49 and how much is due to
15 other factors?

16 A No, I certainly don't have any kind of way
17 to measure that because it certainly required all --
18 you know, a large portion of the financial resources
19 we have, but it's hard to put quantifiable numbers
20 on the amount of volunteer time, for example, and
21 then my time that has to get devoted to
22 litigation -- this litigation effort as well as
23 other problems being caused by the Dominion Voting
24 System.

25 You know, we don't -- as I told you

1 before, we don't keep records of the volunteer time
2 at that level, so I don't have an estimate for you.

3 Q Now, one of the things you indicated that
4 CGG was limited in doing was educating the New York
5 State Board of Elections on problems with BMDs.

6 Do you recall that?

7 A I do.

8 Q I want to have you look at what I marked
9 as Exhibit 11, document that was produced to us in
10 discovery.

11 (Exhibit Number 11 was marked for
12 identification.)

13 BY MR. TYSON:

14 Q Do you recall a letter sent in January
15 2021 to the New York State Board about BMDs?

16 A I recall it kind of vaguely, you know.
17 Helping me remember it a little bit as you're
18 displaying it.

19 Q And Exhibit 11 has your signature as
20 executive director?

21 A It does, uh-huh.

22 Q And in this letter you reference the
23 Coalition's involvement in the Curling case and
24 Judge Totenberg's ruling from October 2020, correct?

25 A Uh-huh. Yes.

1 Q So being part of the Curling case helped
2 CGG's advocacy in New York, right?

3 A Helped? I don't know. We could have
4 been -- we would have been advocates for exactly the
5 same thing with or without the CGG -- excuse me, the
6 Curling case. Preferably without.

7 Q But you're using the Curling case as part
8 of your advocacy in New York, correct?

9 A Well, we're certainly referencing it as
10 other people, I believe, did as well who were not
11 part of the Curling case. It's well-followed, and
12 I'm aware of the some of the other people who
13 weighed in -- who were not associated with Coalition
14 for Good Governance who weighed in using some, I
15 believe, Judge Totenberg's order when they were --
16 when they were talking to the New York State Board
17 of Elections.

18 I do remember getting a lot of calls about
19 the efforts that were being made from around the
20 country to weigh in to the New York Board and people
21 asking for references to that order.

22 Q And you were able to engage in this effort
23 for New York despite CGG's involvement in Curling,
24 right?

25 A I wouldn't say engage. Just the letter is

1 the extent of what we did, and I had to decline
2 several requests for testimony to be offered in the
3 case -- in that particular consideration.

4 It's one I particularly remember because I
5 felt bad about not being able to participate because
6 of the significance of this decision that they were
7 planning to make.

8 Q Do you recall testifying that there were
9 several North Carolina projects that CGG became
10 inactive in because of its involvement in this case?

11 A I certainly do, and there have been more
12 since that time.

13 Q So I've marked as Exhibit 12 a November
14 4th, 2019, letter to the North Carolina State Board
15 of Elections.

16 Do you see that?

17 (Exhibit Number 12 was marked for
18 identification.)

19 A Yes, I do.

20 BY MR. TYSON:

21 Q And this is a letter that you signed on
22 behalf of the Coalition; is that right?

23 A That is correct.

24 Q And this letter urges the board not to
25 certify ballot marking devices in North Carolina,

1 correct?

2 A Particularly the ES&S ExpressVote, yes.

3 Q Did the board ultimately certify the
4 barcode-based BMDs, the ExpressVote?

5 A Unfortunately, they did.

6 Q And CGG was able to engage in this effort
7 despite its involvement in Curling, right?

8 A Certainly not to the extent that we have
9 been asked to or want to, and even today I've had to
10 decline some ongoing requests for CGG's help on this
11 very topic. There is a source code review that we
12 helped initiate, but we have not been able to follow
13 through on supporting the efforts to a source code
14 review for the ExpressVote.

15 Q And do you recall sending an e-mail to
16 Mecklenburg County Board of Elections in 2019 as
17 well?

18 A I probably sent quite a few e-mails to
19 the -- to the Mecklenburg County Board on any number
20 of topics.

21 (Exhibit Number 13 was marked for
22 identification.)

23 BY MR. TYSON:

24 Q I've marked as Exhibit 13 a document
25 produced to us in discovery, and you are

1 Marilyn@uscgg.org, right?

2 A That's correct, yes.

3 Q And was this correspondence, do you
4 recall, also urging this particular county board not
5 to use the ExpressVote machines?

6 A Yeah. Let me take a minute and review it.
7 I'm not recalling it just --

8 Q Sure.

9 A -- off the top of my head.

10 Q Take as much time as you need.

11 A What was the date on this?

12 Q This one, I'm sorry, I scrolled down,
13 September 26, 2019.

14 A Okay. All right. Yeah, then if you'll
15 scroll so I can read the body a little more.

16 Q Sure. And this is in your Exhibit Share
17 if you need it there as well.

18 A Okay. Okay. Do you want to scroll to the
19 next page for me?

20 Q Certainly.

21 A Thank you. Okay.

22 Q All right. So --

23 A Yes, I was urging against the -- CGG was
24 urging against the passage of or the use of
25 ExpressVote's machines --

1 Q Got it.

2 A -- in North Carolina.

3 Q And what I want to ask about is just
4 number 11 there. You say electronic ballot marking
5 devices such as ExpressVote are in litigation in
6 federal court in Georgia, challenging the
7 unconstitutional nature of this form of voting.
8 More lawsuits are expected soon.

9 A Part of it is. The other part of it when
10 it says more lawsuits are expected soon, I believe
11 that that is talking about Pennsylvania lawsuits on
12 this, and I think there was another one that was in
13 the works at that time, and I'm forgetting right
14 now.

15 Q And CGG was able to engage in this effort
16 despite its involvement in Curling, right?

17 A "This effort" being the advocacy in
18 Mecklenburg County --

19 Q Yes.

20 A -- is that what you mean?

21 Well, yes, and obviously not nearly to the
22 extent we wanted to.

23 What we wanted to do and started preparing
24 to do and then had to abort our efforts was to make
25 a series of administrative challenges to the

1 certification that was eventually done by North
2 Carolina and then consider after -- after we
3 exhausted administrative remedies consider
4 litigation to stop this as one of the many things we
5 wanted to do, but we had to abort that and turn over
6 our documents to other organizations to essentially
7 pick up where we left off, and they did litigation
8 which we just could not -- we just didn't have the
9 bandwidth to do here in North Carolina.

10 (Simultaneous speaking.)

11 A Yes.

12 Q I'm sorry, I didn't mean to interrupt you
13 there.

14 I want to ask you now next about -- this
15 is another document produced to us in discovery.
16 Looks like an e-mail communication, and it's
17 addressed to Dear Georgia Republican Leaders on
18 March 4th, 2021.

19 (Exhibit Number 14 was marked for
20 identification.)

21 BY MR. TYSON:

22 Q Do you see that?

23 A I do.

24 Q And this was sent, I'm assuming, to
25 officials while the legislature was considering

1 election integrity legislation; is that right?

2 A You know what, I'll need to review it to
3 remind me what this is about.

4 Q Okay.

5 A Okay. What was your question again?

6 Q Was this e-mail sent while the legislature
7 was considering what I think they refer to as
8 election integrity legislation?

9 A Well, it was -- it was sent during the
10 time that they were considering election
11 legislation.

12 Q So what I want to ask you about is at the
13 very end of the e-mail you describe the Coalition
14 for Good Governance, and you say: CGG is a small
15 but strictly nonpartisan nonprofit organization.
16 Our members and leaders represent quite diverse
17 political views as individuals but come together for
18 the nonpartisan goals of election security, voter
19 privacy, and election transparency. Our ongoing
20 litigation seeking to have the Dominion BMD voting
21 system banned is a project of current primary focus
22 for us.

23 You see that?

24 A Yes.

25 Q And would you say the Curling case is a

1 project that is related to CGG's goals here of
2 election security, voter privacy, and election
3 transparency?

4 A Well, certainly it is related to our
5 goals. We try not to do anything that's not part of
6 our goals. But, yes, it's certainly part of our
7 goals, but it's certainly not the way we would
8 choose to achieve our goals. It's a last resort.

9 Q And is the statement correct that the
10 Curling case was a project of primary focus in 2021?

11 A Yes, just because of the consuming nature
12 of it, it had to be a primary focus for us, not
13 necessarily by choice, but by just the requirements
14 of keeping up with the demands of the case.

15 Q And CGG was able to engage in this
16 advocacy effort despite its involvement -- for the
17 General Assembly legislation despite its involvement
18 in Curling, correct?

19 A Yes, certainly not to the extent that we
20 should have or would like to. Obviously as a
21 501(c)(3) our lobbying efforts are limited anyway,
22 but had we had more resources, more volunteer time I
23 would have hoped that we would have done a better
24 job of being effective at what we were trying to
25 lobby against.

1 I think most of these bills made their way
2 into SB202. I believe what -- that's what most of
3 these references are talking about. But yes, we did
4 engage, but not nearly as extensively or effectively
5 as we would have had we not been dealing with the
6 BMD audit inadequacy Dominion Voting System issues.

7 Q So we're finished with topic 1, which is
8 probably --

9 A Good grief.

10 Q I will say that's the majority of where we
11 were going to spend our time, so we'll keep on
12 trucking here. Do you want to take a break before
13 we move to topic 2?

14 A What is your sense of the rest of the day?
15 I mean, do you want to take a lunch break at some
16 point?

17 Q It's really --

18 A It really doesn't matter that much to me.
19 I really wouldn't mind having 5 or 10 minutes to
20 grab a new cup of coffee or something. It doesn't
21 have to be now, but I don't know how long you're
22 planning to go. Do you mind kind of giving me your
23 thoughts for the outline of time for the day?

24 Q Sure. So we've kind of been through --
25 this addressed half of the things we covered today,

1 so we have a little ways to go yet, but I'm kind of
2 fine to do whatever you want to do on lunch. If
3 you'd rather go ahead and take a longer break we can
4 do that. This next topic is going to be relatively
5 short, but it's really up to you and Robyn. I know
6 we need to consider our court reporter as well may
7 need a break.

8 A I'm happy to accommodate anybody else's
9 schedule. Let others speak up for what they want to
10 do.

11 THE REPORTER: Should we go off the record
12 for this discussion?

13 MR. TYSON: Certainly.

14 THE VIDEOGRAPHER: Time is 2:25 p.m.
15 We're off the record.

16 (Recess 2:25-2:33 p.m.)

17 THE VIDEOGRAPHER: The time is 2:33 p.m.
18 We're on the record.

19 BY MR. TYSON:

20 Q Thank you, Ms. Marks. We're going to
21 move to topic number 2, so referring us back to
22 Exhibit A of Exhibit 1. Topic 2 is the changes made
23 to the organization's budgets as well as any
24 contemporaneous rationale for such changes during
25 its budget years from January 1st, 2017, through the

1 present relating to the laws, policies or protocols
2 challenged in this action. And you were the
3 designee for CGG on topic 2, correct?

4 A That's correct.

5 Q And did you review any documents
6 specifically to get ready for this topic?

7 A No, I'm not sure that there were any
8 documents that would have directly addressed this
9 question.

10 Q And did you speak to anyone associated
11 with CGG specifically to prepare for your testimony
12 on this topic besides counsel?

13 A Not specifically for this purpose, no.

14 MR. TYSON: I think this one will be
15 relatively quick since my focus is on just the
16 document piece, and, Rob, I know you had some
17 objection to this topic. I don't think we'll get to
18 the objectionable scope here, but we'll see how we
19 do.

20 BY MR. TYSON:

21 Q Ms. Marks, does CGG maintain a written
22 annual budget?

23 A No, we do not.

24 Q Okay. And so there's no way to identify
25 from an internal budget document spending on

1 specific categories; is that correct?

2 A That is correct, not from any type of
3 document.

4 Q Okay. And so then it would be correct to
5 say that there's not a document that identifies a
6 diversion of resources from one project to another
7 project within CGG, correct?

8 A I would not say that. I thought you were
9 asking me about a budgetary document, but we have
10 lots of documents that would indicate that, you
11 know, we had to spend money on some type of
12 expenditure that perhaps we were not expecting that
13 we -- which we could have spent on something else.

14 Q I apologize, I was asking specifically
15 about budget documents. I didn't add that
16 qualifier. So --

17 A Sorry.

18 Q -- it's correct to say there are not
19 budget documents that demonstrate CGG spending funds
20 in a different way as a result of the allegations in
21 the Curling lawsuit, correct?

22 A And that is because we do not prepare a
23 formal budget. So, yes, there would not be
24 amendments to the budget because we don't have a
25 formal one.

1 Q And I believe we covered this already, but
2 is it correct that CGG began funding activities
3 related to touchscreen voting in Georgia in 2017?

4 A I'm thinking about the answer. If there
5 were spending in 2016, it would have been at the
6 very end of 2016, and those expenses would have been
7 relatively minor. So any significant spending would
8 have started in 2017.

9 Q Okay. Thank you. That takes care of
10 topic 2, so we can move along at a quicker clip
11 hopefully here.

12 A Okay.

13 Q So let me refer you to topic 3 back on
14 Exhibit 1, and topic 3 is the organization's exempt
15 purpose and activities it undertakes in accordance
16 with its exempt purpose.

17 Do you see that?

18 A I do.

19 Q And you're the designee of CGG for topic
20 number 3, correct?

21 A I am.

22 Q And for our purposes here just so we are
23 all clear, "exempt purpose" refers to the tax-exempt
24 purpose of CGG.

25 A That is correct.

1 Q So did you review any documents
2 specifically to prepare for topic 3 of the
3 deposition?

4 A I did not, and that's when I said I forgot
5 to -- my intention was to go back and reread the
6 specific wording on the 990, and it's -- I had a
7 note to do it, and I just forgot.

8 Q And I apologize, you did raise that
9 already, so let's go right to that. I want to show
10 you Exhibit 8, which while I'm getting there let me
11 just clarify I'm assuming that also means you didn't
12 speak with anybody associated with CGG about this
13 particular topic, correct?

14 A Not about this particular topic, correct.

15 Q So on the 2019 990, page 2, line 1,
16 there's a line that says, briefly describe the
17 organization's mission.

18 Is this an accurate summary of CGG's
19 mission?

20 A It is.

21 Q And part of that mission --

22 A May I correct myself there?

23 Q Certainly.

24 A It has expanded beyond Colorado obviously,
25 and that may have been in our kind of original

1 post-2014 reorganization -- informal reorganization
2 of Rocky Mountain Foundation, and we -- we certainly
3 expanded beyond Colorado, and I guess it depends on
4 what you consider the region, but that probably
5 needs to be formally expanded in our -- in our work.

6 Q Okay. Thank you for that clarification.

7 On the third line there, there's an
8 indication that: CGG will engage in litigation as
9 well as provide monetary support for legal expenses
10 to other organizations engaged in litigation on
11 these issues.

12 Do you see that sentence?

13 A Yes.

14 Q And so part of CGG's mission is filing
15 lawsuits, right?

16 A Well, I wouldn't -- I wouldn't say that it
17 is our mission to file lawsuits. We know that it
18 will be necessary at times.

19 Q Okay. And the lawsuits that are filed are
20 in pursuit of the interests that CGG exists to
21 protect, correct?

22 A Well, yes.

23 Q So let me next mark a portion of the CGG
24 website. Are you responsible for what's posted on
25 the CGG website?

1 A Not me personally directly. I don't know
2 how to do it. But speaking for the organization,
3 yes, we as an organization are responsible for
4 what's on the website, which is often out of date.

5 Q Well then let me ask about this to see if
6 this is in date or not.

7 (Exhibit Number 15 was marked for
8 identification.)

9 BY MR. TYSON:

10 Q So this is a printout you can see at the
11 bottom here Exhibit 15, right,
12 coalitionforgoodgovernance.org.

13 A Right.

14 Q Is that the website of the Coalition?

15 A Yes, it is.

16 Q And this is a mission statement. Is this
17 mission statement up to date and correct?

18 A Let me take a look.

19 Q Okay.

20 A It is correct, and it looks like it was
21 taken to a great degree from that tax-exempt purpose
22 that you and I were just looking at.

23 Q Thank you.

24 So CGG is engaged in interests related to
25 government transparency and accountability. That's

1 one of the things, correct?

2 A One of the things, yes.

3 Q And elections are listed specifically,
4 correct?

5 A Yes.

6 Q Does a jurisdiction's use of BMDs relate
7 both to the elections and the government
8 accountability and transparency interests of CGG?

9 A As well as due process and equal
10 protection, yes.

11 Q So advocacy around the use of electronic
12 voting relates to several of CGG's interests, right?

13 A Yes.

14 Q When you say in that second paragraph, "we
15 will engage in litigation," that litigation is a
16 major function of CGG, at least as to its activities
17 right now?

18 MR. MCGUIRE: Objection to form.

19 A Litigation is certainly consuming a huge
20 amount of our resources right now, but if we go
21 ahead and read the rest of that sentence, inform
22 legislative policy, and then the next sentence we
23 will be using education, communications, obviously
24 those are much preferable for any organization than
25 to engage in litigation.

1 So yes, litigation is one avenue, but it
2 is our -- our least favorable choice.

3 BY MR. TYSON:

4 Q Understood.

5 Now, CGG is a Colorado corporation,
6 correct?

7 A Incorporated in Colorado, yes.

8 Q Is CGG registered as a charity in Georgia?

9 A We are.

10 Q So let me next mark Exhibit 16.

11 (Exhibit Number 16 was marked for
12 identification.)

13 BY MR. TYSON:

14 Q These are articles of incorporation for a
15 nonprofit corporation from the Colorado Secretary of
16 State. Do you see that?

17 A Correct.

18 Q And this is for the corporation Rocky
19 Mountain Foundation, Inc., right?

20 A Right. Yes.

21 Q Do you know, are these the original
22 articles of incorporation for what is now CGG?

23 A I believe that they are. At least
24 according to our records they are. We did not -- we
25 were not management at the time they were filed.

1 Q Understood.

2 So what I wanted to ask you about, the
3 last page is entitled Rocky Mountain Foundation,
4 Inc. Attachment to Articles of Incorporation for the
5 Nonprofit Corporation, and provision 1 is the
6 purpose, and the purpose says: Said corporation is
7 organized exclusively for charitable, religious, and
8 scientific purposes, including for such purposes,
9 the making of distributions to organizations that
10 qualify as exempt organizations under section
11 501(c)(3) of the Internal Revenue Code, or the
12 corresponding section of any future tax code.

13 Do you see that?

14 A I do.

15 Q Is this -- well, let me put it this way:
16 I tried to locate any other filed purpose statement
17 for the organization CGG and was not able to do so.
18 Do you know if this is the current incorporated
19 purpose statement of CGG?

20 A I was just asking myself that as you
21 presented this, and, quite frankly, I just don't
22 remember. I know we made some amendments to the
23 articles of incorporation a long time ago, I believe
24 we did, and by-laws, and I just can't answer that
25 question for you right now. I don't remember.

1 Q We'll look at another provision of the
2 website related to purpose. Mark this as Exhibit
3 17, and this is the coalitionforgoodgovernance.org
4 website, slash, bios?

5 (Exhibit Number 17 was marked for
6 identification.)

7 A Which is definitely out of date, okay.

8 BY MR. TYSON:

9 Q Entitled Who We Are. You see that there?

10 A Yes.

11 Q That was going to be my first question is,
12 is this current?

13 A No. I was talking to Mary Eberle about
14 this a few weeks ago, and she said, Marilyn, it just
15 hasn't been my priority to get this updated.

16 It is not up to date for all sorts of
17 reasons, including we have two additional directors
18 who are not reflected on here.

19 Q Understood. We'll get to the board and
20 those pieces here in a minute.

21 A Okay.

22 Q I just wanted to ask a couple questions
23 about your bio. You indicated after your loss to
24 become mayor of Aspen that you then devoted
25 full-time to election integrity litigation and

1 lobbying efforts for more transparent and verifiable
2 elections; is that right?

3 A Yes.

4 Q Is that a fair summation of your work at
5 CGG?

6 A Not -- not totally today, no, because as
7 we've talked, you know, a lot of time is spent with
8 education, talking to voters, talking to candidates.
9 So it would be election administration, election
10 integrity efforts of which litigation and lobbying
11 would be two of the things, but certainly not all.
12 Today, you know. This is -- in 2009 I then devoted
13 full-time to...

14 Q To those efforts?

15 A Yeah.

16 Q Makes sense.

17 So let me ask next about the exempt
18 activities and the mission that you've listed in
19 your complaints. So I'm going to return back to
20 Exhibit 3 here and go -- which is the third amended
21 complaint and go to paragraph number 20.

22 You see that with me?

23 A I do.

24 Q And so in this complaint the Coalition
25 alleges Coalition's purpose is to preserve and

1 advance the constitutional liberties and individual
2 rights of citizens with an emphasis on preserving
3 and protecting those private rights of its members
4 that are exercised through public elections.

5 Do you see that?

6 A I do.

7 Q And so is it correct that advancing
8 individual rights through proper election
9 administration is a key part of CGG's mission?

10 A Yes, sure.

11 Q Okay. Then there's a -- paragraph 21
12 lists -- begins, "Coalition serves its purpose in
13 multiple ways, including by," and then lists out a
14 number of different things that are there, which if
15 you can just take a minute to read through those for
16 me.

17 A Okay. Okay.

18 Q You'd agree with me CGG sometimes serves
19 its purpose by filing litigation, right?

20 A Sometimes, yes.

21 Q So what I want to do is kind of walk
22 through these different pieces you list in paragraph
23 21. Since the filing of Curling, CGG has provided
24 information and education to its members, correct?

25 A Yes.

1 Q And since the filing of Curling, CGG has
2 served as a nonpartisan and informational resource
3 for the public, press, campaigns, candidates, and
4 political parties, right?

5 A We have.

6 Q And since the filing of Curling, CGG has
7 monitored nationwide developments in election law
8 and technology, right?

9 A Not nearly as much as we used to, but we
10 have done that to the extent possible.

11 Q And since the filing of Curling, CGG has
12 provided speakers for events at educational
13 institutions, right?

14 A Quite frankly, that has declined even
15 since this was written because we've had to -- I
16 think this year we've declined all invitations, and
17 most of last year we had to decline most
18 invitations, but we still -- when we can, we do it.

19 Q Okay. And CGG, since the filing of
20 Curling, has provided commentary from its leadership
21 on election issues, right?

22 A We have done that, but we have been unable
23 to do it recently. And what I mean by this in that
24 statement was generally op-eds, and I have been
25 asked to write many a op-ed in this last six months

1 and have been unable to.

2 So, yes, done it, but we have not done it
3 nearly as consistently and as actively as we want
4 to.

5 Q Since the filing of Curling, CGG has
6 collaborated with voting rights and election
7 integrity initiatives with other nonpartisan profits
8 (sic) and academics, right?

9 A Many of those activities are on hold right
10 now, but we have done some of this, yes.

11 Q And to kind of finish out here, since the
12 filing of Curling, CGG has developed and shared
13 research about election problems, right?

14 A That we have done extensively, yes.

15 Q And since the filing of Curling, members
16 and prospective members of CGG have participated in
17 the electoral process through poll watching,
18 attending public meetings, and other civic
19 activities, right?

20 A That has declined a lot in the last six
21 months, but yes, we have engaged in that, you know,
22 to some extent in every year since 2017.

23 Q Let me move next to topic number 4. Topic
24 4 is the organization's organizational structure,
25 including individuals who have the authority to make

1 funding and resource allocation decisions for the
2 organization from January 1, 2017, through the
3 present.

4 So you were the designee for topic number
5 4, correct?

6 A I am.

7 Q And did you review any documents to
8 prepare for this particular topic of the deposition?

9 A No, I did not have any documents to really
10 look at for that.

11 Q Did you speak to anyone about the -- about
12 the topic -- I'm sorry, start over again.

13 Did you speak to anyone who's currently or
14 formerly associated with CGG to prepare for this
15 part of your deposition?

16 A No, not on this part. I'm just going back
17 to read the --

18 Q I'm sorry, I can put that back up.

19 A No, no, no, I've got it in front -- I've
20 got it right here. I just needed to scroll to it.
21 Okay.

22 Q Let me know when you're finished.

23 A I'm finished.

24 Q All right. So what is CGG's
25 organizational structure?

1 A So we have a board of directors that we
2 talked about, and I think we listed the board
3 members' names. Or maybe we didn't.

4 Q I don't think.

5 A All right. So Mary Eberle is the board
6 secretary, Lisa Cyriacks is the board chairman, and
7 I believe she has the title of president, Rhonda
8 Martin is on the board, and Virginia Rutledge Forney
9 is on the board, and I'm on the board. So that
10 makes up the formal board of directors of CGG.

11 Q And I counted five individuals is the
12 right number for the board?

13 A That's correct.

14 Q When did the board expand from three to
15 five members?

16 A I'm thinking about that. I believe it may
17 have been in late 2019 or early 2020, sometime in
18 that time frame. That's probably not exactly right,
19 though.

20 Q And I guess what I'm really trying to get
21 to is at the time Curling was filed, is it correct
22 there were only three board members?

23 A That is correct, yes.

24 Q And those three board members were Lisa
25 Cyriacks, Mary -- I'm sorry?

1 A Eberle.

2 Q Eberle -- I knew I wasn't pronouncing it
3 right -- and you, correct?

4 A That is correct.

5 Q Okay. How frequently does the board meet?

6 A We do not have a particularly regular
7 meeting schedule. I mean, we meet the requirements
8 of the by-laws on that, but we tend to call a formal
9 or informal board meeting, you know, every several
10 weeks generally when there's some either decision
11 that needs to be made or important update on some of
12 the activities.

13 Q Did the board have to vote to approve the
14 filing of the Curling lawsuit?

15 A We did.

16 Q And does the board make decisions that
17 reallocate financial resources to litigation or
18 education or other areas?

19 A Well, this kind of goes back to our
20 previous discussion about budget, and because we
21 don't keep a formal budget per se, there wouldn't be
22 a formal decision to move things from category A to
23 category B, but they are all generally aware of what
24 financial obligations we are undertaking and approve
25 them if they're significant.

1 Q Do you have a particular threshold for
2 significance?

3 A We really don't. We don't. If it were
4 going to be, say, undertaking a new case, you know,
5 knowing that there would be legal expenses involved,
6 then we would -- we would certainly have full board
7 approval for something like that. If it's, like, a
8 new subscription to Constant Contact, no, we don't
9 make a big board decision on something like that.

10 Q Did the board decide to divert the
11 resources that we discussed earlier -- financial
12 resources we discussed earlier, or is that a
13 decision somebody else made?

14 A There wouldn't be anybody else to make
15 such a decision. The board would have to make such
16 a decision. We don't have another boss somewhere.

17 Q And I guess my question was more
18 specifically did the board delegate to you the
19 ability to make those decisions, or are they always
20 made at a board level?

21 A For something like, you know, engaging in
22 litigation, that doesn't just happen. We -- you
23 know, election cases aren't filed overnight, you
24 know. We talk about it, decide if it fits, can we
25 afford it, generally no, but we -- we discuss it,

1 and then they give me the authority to engage the
2 attorneys and get started.

3 Q Would the board also make decisions to
4 allocate volunteer time to, for example, litigation
5 as opposed to voter education?

6 A It's generally discussed. It's something
7 we're always talking about is what are our
8 volunteers doing, and how can we be more efficient.
9 It wouldn't be something that we would put up for a
10 board vote, though, because, again, we can't --
11 these are volunteers. We don't control how much
12 time they spend, and to a great degree our
13 volunteers work on things that they are passionate
14 about. We don't necessarily say, oh, please don't
15 work on educating the Morgan County, you know,
16 candidates and instead go focus on Spalding County.
17 We don't really do that.

18 Q Who makes the decision about the
19 allocation of interns' time?

20 A I do the bulk of that. Mary Eberle also
21 gets involved in that when -- particularly if they
22 are trying to do something related to website or
23 contacting donors or members. Mary Eberle will tend
24 to get involved in that and supervise them at that
25 time.

1 Q I'm assuming that there's no kind of
2 formal documentation of those decisions; that's just
3 instruction to somebody to go do something?

4 A Correct. I mean, it's like -- well, for
5 example, Mary yesterday was asking an intern to
6 update ShareFile links for her to put on the
7 website. Of course it's documented that she asked
8 her to do it, but we don't have some document that
9 says, Mary, you may ask the interns to do these
10 things, but you can't ask them to do that. Okay?
11 It's just more informal than that.

12 Q Informal process, I understand.

13 A Informal process, yes.

14 Q So I want to ask you -- I've marked as
15 Exhibit 18 what I received Tuesday evening, this
16 document titled CGG Board Discussion Package.

17 (Exhibit Number 18 was marked for
18 identification.)

19 BY MR. TYSON:

20 Q You see that?

21 A Yes.

22 Q I'll confess to be a little confused. The
23 title was 3/15/21 materials. Is this for a meeting
24 in 2020 or 2022 -- or 2021 or 2022?

25 A It was actually for a meeting yet to come.

1 It's scheduled for next week. We're trying to nail
2 down whether it's going to be the 21st or the 22nd,
3 and I started and titled the thing I think on the
4 15th, and I just screwed up and put '21 instead of
5 '22.

6 Q No problem. I just wanted to make sure I
7 hadn't missed something.

8 A Right. Right.

9 Q So this is a document you created; is that
10 correct?

11 A It is. It is a document that I assembled.
12 I didn't create every document in there certainly,
13 but, yes, I did assemble that for the board because
14 it's been a very long time since we've had a meeting
15 to kind of comprehensively go through a lot of
16 the -- a lot of the issues surrounding this
17 litigation, and they have asked to have an extensive
18 meeting soon to do that, and so I took a lot of
19 materials and pulled them together for that purpose.

20 Q Got it.

21 And are board discussion packages like
22 this, like Exhibit 18 created for every board
23 meeting?

24 A Oh, heavens, no. I wish they were, but
25 they -- because we had a lot of requests from the

1 board for let's dive into where we stand on the
2 litigation and I had accumulated a bunch of news
3 articles, we had had the experts' reports recently,
4 no, I would not normally have this level of package
5 to go to a board, but -- and also because I had been
6 getting an awful lot of requests that I haven't
7 honored yet to explain the issues around the audit
8 and the issues around double and triple counting,
9 then I put a lot of stuff in there about this as
10 well that we got to spend time on.

11 Q Got it. Thank you.

12 All right. Moving right along, let's move
13 over to topic number 5. Back on Exhibit 1, topic 5
14 is the specific ways in which the actions of the
15 defendants that form the basis of the complaints in
16 this action caused the organization to divert
17 resources away from its organizational activities to
18 activities in which the organization had not
19 previously engaged and the identification of the
20 overall amount of the diverted resources, and then
21 A, the specific activities and projects the
22 organization was unable to engage in due to the
23 diversion of resources to activities necessitated by
24 such actions.

25 So you see that?

1 A I do.

2 Q And you're the designee for topic 5,
3 correct?

4 A That is correct.

5 Q Did you review any documents specifically
6 to prepare for topic 5?

7 A No, I -- I just thought a little bit about
8 some of the documents that we had produced for you,
9 and then I spent a little time thinking about the
10 more recent activities and projects that we are
11 having to either stop or not engage in or slow down,
12 and I didn't really go back and review a lot of
13 e-mails for that.

14 Q And did you also -- are these similar
15 topics that you would have spoken with Ms. Dufort
16 and Ms. Nakamura regarding?

17 A Similar, but certainly not all. They
18 are -- they tend to be -- tend to be more aware of
19 the Georgia issues and the Georgia activities, and
20 sometimes they get involved with -- as -- as they've
21 become more active in CGG and CGG has become more
22 known for some of this work, they also get involved
23 with some of the national organizations, but I tend
24 to have more the national relationships, and they
25 tend to have more of the Georgia relationships, if

1 that makes any sense.

2 Q It does.

3 Did you speak to anybody else besides
4 Ms. Dufort and Ms. Nakamura to prepare specifically
5 for this part of the deposition, this topic?

6 A You broke up during part of that sentence.
7 It sounded like you said Ms. Dufort and
8 Ms. Nakamura; is that what you said?

9 Q Yes, I was saying besides Ms. Dufort and
10 Ms. Nakamura, did you speak to anyone to help
11 prepare for this topic?

12 A No, I did not.

13 Q And I don't want us to repeat, I think
14 we've covered a lot of this ground already in terms
15 of specific activities, but I did want to just try
16 to understand do you have a sense of what percentage
17 of the organization's work is dedicated to election
18 integrity or election efforts -- not election
19 integrity, just election efforts?

20 MR. MCGUIRE: Objection to form.

21 A I have no documents on such, and it would
22 just be a really rough idea of probably 90 percent
23 election related. Not necessarily BMD related or
24 Dominion voting related, but election related right
25 now probably 90 -- 90 percent, but not -- not

1 because that's the only thing we want to do.

2 As I mentioned, I really want to be doing
3 some open -- open records -- excuse me -- yes, open
4 records and open meetings issues.

5 BY MR. TYSON:

6 Q And so the approximately 10 percent that
7 goes to other projects, what categories of -- are
8 those projects?

9 A I would say that some of that would be
10 fundraising, some of that will be just kind of
11 general administrative stuff like getting D&O
12 insurance or getting the accountants lined up to do
13 our audit -- or excuse me, our 990, but also where I
14 have spent some time, a little bit more these past
15 two years that I did not do so much in previous
16 years has been a little more involved in lobbying
17 for some legislation in Georgia, ballots as open
18 records, ballot images, and then trying to make
19 whatever changes we could, not necessarily
20 successful at it, in bills like SB202 and its
21 predecessors.

22 So while we spend absolutely no money on
23 lobbying other than some small portion of whatever
24 an e-mail costs, we don't spend any significant
25 money on lobbying, but I do spend some time on

1 election-related bills primarily in Georgia. Not
2 doing very much right now in North Carolina despite
3 the request.

4 Q And I know you mentioned earlier work on
5 double-counting issues. You recall that?

6 A Yes. Yes.

7 Q And you'd agree with me that if an
8 election official is double counting ballots they're
9 counting them incorrectly, right?

10 A Well, yes. And when you say "an election
11 official," I don't mean to imply that it is the
12 official's fault that that is happening, but if the
13 system is counting twice or three times, that's
14 certainly wrong.

15 Q All right. So let's move to topic number
16 6, and topic number 6 is the specific laws,
17 policies, and protocols the organization alleges are
18 unconstitutional or violate federal law as asserted
19 in this action and the specific steps the
20 organization took to address its understanding of
21 those laws, policies, and protocols.

22 Then subpart A, specific steps the
23 organization has taken to address those laws,
24 policies, and protocols it advocates are
25 unconstitutional or violate federal law and its

1 involvement in this action and the process by which
2 those steps were determined and the specific steps
3 the organization took to address those laws,
4 policies, and protocols it advocates are
5 unconstitutional or violate federal law other than
6 its involvement in this action and the process by
7 which those steps were determined.

8 So you see that language?

9 A I do see the language.

10 Q And you're the designee for topic 6,
11 correct?

12 A That's correct.

13 Q And did you review any documents
14 specifically to prepare for topic number 6?

15 A As I mentioned before, I looked at our
16 first supplemental complaint, but I didn't look at
17 it last night or anything. I think I probably
18 looked at it about a week ago, and I might have
19 looked -- glanced at maybe a motion for preliminary
20 injunction. But in more detail than that, no, I did
21 not go through all our -- all our documents.

22 Q Certainly.

23 MR. MCGUIRE: I just wanted to reiterate
24 that we do have objections to the major topic and to
25 part A. Her preparation was curtailed by that, of

1 course.

2 BY MR. TYSON:

3 Q Certainly. I think we'll be able to
4 address that as we go, so thank you for making note
5 of that.

6 So, Ms. Marks, other than filing this
7 lawsuit, has CGG undertaken any efforts to address
8 the laws, policies, and protocols it says are
9 unconstitutional?

10 A Yes.

11 Q And what are those?

12 A Well, for one, we have tried to do
13 communications with lawmakers certainly both at the
14 time that laws were being promoted in the general
15 assembly about ballot marking devices going back to
16 2018 and then 2019, we've talked to lawmakers both
17 formally in hearings, through e-mails, through
18 personal telephone conversations, through visits
19 with lawmakers. The same would be true of we've
20 talked to election officials who we felt they need
21 to be both educated on the -- on the issues and who
22 would hopefully lobby for avoiding BMDs and
23 promoting effective audits.

24 You know, other -- other activities would
25 have included educating members on the problems with

1 the BMDs, and not only BMDs but necessity for
2 audits.

3 Let's see. I'm going back to the question
4 to make sure that I'm remembering all the things
5 you're asking about.

6 Okay. So we would have done lobbying, we
7 would have done education, we would have also
8 participated in generating -- crafting ourself
9 proposed rules that we have sent to the secretary --
10 excuse me, to the State Election Board around some
11 of these topics.

12 Oh, another thing that we've done, we
13 participated in the SAFE Commission meetings. We
14 went to almost all of the SAFE Commission meetings
15 to try to persuade the decision makers there, which
16 did not just include lawmakers but election
17 officials that the BMDs should not be required --
18 should not be accepted, and there should be
19 hand-marked paper ballots and audits, and we've also
20 talked to a variety of county election officials. I
21 may have already covered that. But there would have
22 been e-mails as well as personal talks to election
23 officials in the counties about these topics.

24 Q Thank you.

25 A Now, there could be some other -- some

1 other types of activities I'm not remembering off
2 the top of my head and that I didn't remember at the
3 time I was preparing.

4 Q Okay.

5 A Those are some primary ones.

6 Q Okay. Thank you.

7 And the efforts to -- kind of start in
8 reverse order with the SAFE Commission, the goal
9 there was to persuade the SAFE Commission not to
10 adopt ballot marking devices, correct?

11 A I think that was a primary goal. I'm not
12 sure it was completely limited to that, but I'm sure
13 we would have had something to say about the
14 necessity of audits as well and probably other
15 election security issues.

16 Q And the Coalition's effort to lobby
17 lawmakers, if the Coalition could persuade a
18 majority of the General Assembly in both houses and
19 the Governor it could address the use of ballot
20 marking devices in Georgia, correct?

21 A Yes.

22 Q Is another step the Coalition has taken to
23 address the policies that it says are
24 unconstitutional is fundraising to fund its efforts?

25 A Well, yes, certainly. We would -- we

1 would be doing fundraising year in and year out
2 regardless of efforts of what we were doing, but,
3 yes, it's taken a lot of resources to get this far
4 with this litigation.

5 Q And CGG has used its involvement in the
6 Curling case to help raise money, correct?

7 A Yes, uh-huh, in showing the need for what
8 we were asking donors to give, certainly.

9 (Exhibit Number 19 was marked for
10 identification.)

11 BY MR. TYSON:

12 Q Show you what we marked as Exhibit 19.
13 This is another e-mail produced to us dated August
14 20th, 2020.

15 Do you see that?

16 A I do.

17 Q And it opens with: Thanks for your
18 generous donation to the Coalition. We have great
19 progress to report.

20 Could you take a minute and look, is this
21 an update sent to donors, or do you know to whom
22 this e-mail was sent?

23 A I assume it was sent to donors.

24 Q Okay. And in this e-mail there's a
25 request to consider making a donation today to help

1 fund the efforts in the Curling case, right?

2 A Yes. Certainly not limited to that, but
3 yes.

4 Q Let me -- there's another exhibit we'll
5 mark as Number 20.

6 (Exhibit Number 20 was marked for
7 identification.)

8 BY MR. TYSON:

9 Q This is another e-mail produced to us. I
10 believe it's September 13th, 2020.

11 Do you see that?

12 A I do.

13 Q And it says, Dear friends of Coalition for
14 Good Governance. Who does that constitute, do you
15 know?

16 A I don't. My guess is what we did is we
17 expanded beyond people who had donated in the past,
18 and I'm guessing it would be -- I don't remember
19 right now, but I'm guessing it would be people on
20 our mailing list, other mailing lists we may have,
21 we probably even sent to legislators, et cetera.

22 And when we say "friends," that was just a
23 general category of having a friendly opening to --
24 in the salutation.

25 Q What I want to ask here, there's an ask

1 here: Can you make a contribution now to help with
2 attorneys' fees and experts' work.

3 You see that?

4 A I do.

5 Q And so CGG is asking for money to help pay
6 for attorneys' fees and experts' work, right?

7 A As we always do, yes.

8 Q And then you make the reference: Can we
9 count on you to support the essential battle for
10 simple, secure, and defensible elections?

11 Do you see that?

12 A Yes.

13 Q And that battle for simple, secure, and
14 defensible elections is part of the work that CGG
15 undertakes, right?

16 A It is part of the work, yes.

17 Q So let me -- let's go back to the website
18 here. We'll mark as Exhibit 21, this is the
19 coalitionforgoodgovernance.org/donate.

20 Do you see that?

21 (Exhibit Number 21 was marked for
22 identification.)

23 A I do.

24 BY MR. TYSON:

25 Q And is this the donate page that you would

1 direct recipients of e-mail requests for funds to?

2 A Quite frankly, I haven't looked at it in a
3 while. I assume it is the most recent one that's up
4 there, but it certainly needs to be updated.

5 Q Okay. So on the donate page, I see that
6 you reference the newest lawsuit challenging Senate
7 Bill 202, and you reference the Curling versus
8 Raffensperger case, right?

9 A Yes.

10 MR. MCGUIRE: Object to form.

11 BY MR. TYSON:

12 Q And you can take a minute to look, but I
13 don't see any reference to any other work of the
14 Coalition on the donate page; is that right?

15 MR. MCGUIRE: Object to form.

16 A It doesn't mention any other project that
17 I see, but we say it will help defend election
18 transparency and security, so it's certainly not
19 meant to be limited to litigation.

20 BY MR. TYSON:

21 Q In the middle here you say: We rely on
22 donors -- rely on donors like you to help fund the
23 legal and experts' fees and expenses.

24 Do you see that?

25 A I do.

1 Q And so the legal and experts' fees and
2 expenses relate to litigation work, right?

3 A Well, there's some legal expenses that do
4 not. Like, we mentioned a while ago that
5 Mr. McGuire helped me on some administrative work in
6 North Carolina on briefs that he wrote to -- briefs
7 is probably not right, but letters, that sort of
8 thing he has helped write in North Carolina that was
9 not litigation in those, but we would have put those
10 in the category of legal expenses.

11 Q Okay. That's helpful. Thank you.

12 And you close the page by saying: Thank
13 you for supporting the fight for transparent and
14 evidence-based elections.

15 See that?

16 A That's correct.

17 Q And is that an accurate summation of the
18 Coalition's work?

19 A It's one element of our work. This is
20 just a thank you statement saying thank you for
21 supporting this part of our work, but it's certainly
22 not meant to be thank you for supporting every
23 little thing that we do.

24 If we go up above we've talked about that
25 the donations also go to support the work of our

1 incredible interns.

2 Q Mark next Exhibit 22, which this is just
3 the home page for coalitionforgoodgovernance.org.

4 (Exhibit Number 22 was marked for
5 identification.)

6 BY MR. TYSON:

7 Q See that?

8 A I do.

9 Q So I wanted to ask, there's a donate
10 button right here at the top, and the statement is
11 made: And watch our progress in bringing effective
12 challenges to unauditable electronic voting systems
13 in Georgia assisted by your donation that will
14 exclusively support the legal and forensic work.

15 You see that?

16 A Right. Right. And that is certainly out
17 of date. I am not sure when we put that up, but I
18 think that was even before SB202. So that -- that
19 was meant to be kind of a fundraising at that
20 moment, but it really should have been updated and
21 expanded since then.

22 Q Okay. So it's not accurate to say that
23 donations to CGG exclusively support the legal and
24 forensic work?

25 A Not on an ongoing basis. I'm sure that

1 particular fundraiser that was written at that time
2 was saying, yeah, let's -- let's divert -- not
3 divert, excuse me, let's dedicate virtually
4 everything to the legal and forensic work, but it's
5 not meant to be -- obviously it wouldn't even work
6 for it to be the only thing that we can put donors'
7 money toward.

8 Q Okay.

9 (Exhibit Number 23 was marked for
10 identification.)

11 BY MR. TYSON:

12 Q I've marked as Exhibit 23 the Coalition
13 for Good Governance current projects. See that?

14 A I do.

15 Q I'll try to zoom in. This one ended up
16 printing very small. So is this the current
17 projects site of the CGG website?

18 A To tell you the truth, I haven't looked at
19 our website. It is not one of the things I reviewed
20 in preparation for this deposition. I have not
21 looked at that website in a long time because I know
22 it's out of date, and it makes me feel guilty, so I
23 can't tell you whether it is or not.

24 Q I just want to ask --

25 A I'll take your word for it, though.

1 Q I just want to ask about one thing in
2 particular, which I think based on our prior
3 conversation the statement here at the end that
4 donations go only to cover our litigation support
5 expenses and modest compensation for our analysts
6 and interns, is that also an out-of-date statement
7 at this point?

8 A It probably is an out-of-date statement
9 because, you know, I think it was meant to also be
10 probably not taken exactly literally. Obviously
11 we've got things like D&O insurance and accounting
12 fees and stuff that are minor, but, right, it would
13 be a bit of an out-of-date statement.

14 Q Okay. Now, do you -- you operate the
15 Twitter account at MarilynRMarks1, correct?

16 A That's correct, yes.

17 Q And do you conduct fundraising activities
18 or solicit funds for CGG on that Twitter account?

19 A To some extent, yes.

20 (Exhibit Number 24 was marked for
21 identification.)

22 BY MR. TYSON:

23 Q So I've marked as Exhibit 24 a series of
24 tweets from January the 24th from the
25 @MarilynRMarks1 account.

1 A Okay.

2 Q You see that?

3 A I do.

4 Q And do you recall sending these tweets?

5 A Actually, I don't at the moment. I'll
6 need to kind of review them to --

7 Q Certainly.

8 A -- refresh my recollection.

9 MR. MCGUIRE: Bryan, is there a year on
10 that? What year did you say it was?

11 MR. TYSON: January 24th. It was on
12 January 28th, 2021, that it was printed, so these
13 all relate to -- I'm not trying to keep you from
14 reviewing this, Marilyn, but they relate to the
15 Capitol riot on January 6, 2021, so it should be
16 January of 2021.

17 MR. MCGUIRE: Bryan, I also just ask --
18 unless I don't understand, this doesn't look like
19 it's within any of the topics, so I assume she's
20 speaking personally and not on behalf of the
21 organization.

22 MR. TYSON: In my view this is related to
23 the steps that the organization took, it's another
24 fundraising-related question, but I'm happy for her
25 to answer in her personal capacity as to her own

1 Twitter account.

2 A Okay. I'm not remembering all this off
3 the top of my head without a little more.

4 BY MR. TYSON:

5 Q And maybe I can short-circuit a little
6 bit.

7 A I'm not saying I didn't do it. I just
8 need to remember what this is about.

9 Q So my only question relates to these last
10 few tweets in this sequence: We at Coalition Good
11 Gov warned of this problem in 2018, 2019, and
12 continue our federal lawsuit (Curling v.
13 Raffensperger) to seek auditable elections-no
14 hackable touchscreens. Georgia should use
15 hand-marked ballots that cannot be manipulated.
16 Please help us, and there's a link to something
17 that's bit.ly/CGGDonate.

18 You see that?

19 A I do.

20 Q And so this is a request for a donation to
21 the Coalition, correct?

22 A That's correct, yes.

23 Q What I want to ask about is an individual
24 with the name @strategyPhD replies and says: I just
25 donated some cash for this excellent work that

1 you-all are doing. I know it's not a lot, but every
2 20 bucks here or there will make a difference. Keep
3 up the democracy-saving work.

4 Then you reply: Thank you so much. We
5 know how to stretch a dollar and put it to critical
6 use. We have no overhead, and all donations go for
7 direct costs of litigation.

8 Is that a correct statement of how CGG
9 uses its resources?

10 A It is not technically correct. Right now
11 the vast majority of the resources that we get in
12 are having to go to support the litigation, but
13 literally we have a tight -- when I say we have no
14 overhead, overhead in the way most people think of
15 overhead, offices, paid -- salary, you know, most of
16 the work our interns are doing certainly is for
17 litigation support.

18 And so my point was here that the vast
19 majority of resources are being directed to
20 litigation support, not that we don't spend a dime
21 on something like an accounting -- like accounting
22 fees.

23 Q I'm going to mark what I marked as 25.

24 (Exhibit Number 25 was marked for
25 identification.)

1 BY MR. TYSON:

2 Q This is another tweet from the
3 @MarilynMarks account August 22, 2020. And it says:
4 We at CGG -- I guess I should ask is
5 @CoalitionGoodGv the CGG Twitter account?

6 A It is.

7 Q And can you post to that account?

8 A I can.

9 Q Does anyone else have the rights to tweet
10 from that account?

11 A Yes. In fact, I rarely do it, but one of
12 our interns is supposed to be doing it, and we're
13 not keeping it up right now, but a few of our
14 interns have the ability to do that, and I believe
15 maybe Mary Eberle does as well.

16 Q So this tweet --

17 A Did I answer that I did? I can't remember
18 if I told you whether I have the ability, but I do.

19 Q Yes, and you did. Thank you for that
20 clarification.

21 So this statement says: We at Coalition
22 Good Gov are fighting for a fair election in
23 November. We don't spend our time on seeking
24 recognition or writing research papers. We spend
25 our resources on the battlefield in the court to

1 protect your rights. Please help support our
2 efforts, and then you direct people to the
3 coalitionforgoodgovernance.org/donate site, correct?

4 A Uh-huh.

5 Q And so at least in part of how you're
6 soliciting funds for CGG you're telling them that
7 you're not engaged in research paper activity but
8 instead are spending resources in court, correct?

9 A We are, and it's not meant to say we're
10 spending every single dime, but we are spending,
11 yes, our resources in court. And I guess I was
12 taking a slam at some of the many voting rights
13 organizations that tend to just sit in ivory towers.

14 Q Understood.

15 Does CGG maintain records of donations
16 that come from particular e-mails or campaigns or
17 does it all just kind of funnel into one pot?

18 A It really all funnels into one pot.
19 Obviously that's not correct as it relates to, say,
20 a foundation that we would specifically solicit, and
21 their donations are not kind of getting -- they're
22 not generally coming in through the website or
23 anything like that. We tend to have more one-on-one
24 personal communications with foundation-type donors.

25 Q Has CGG had success raising money citing

1 the Curling case as a reason to donate to the
2 organization?

3 MR. MCGUIRE: Object to form.

4 A There are so many parts of that sentence.
5 Had success. Sometimes I think that, actually, we
6 haven't had success in raising money compared to
7 what we need.

8 So have we raised money because people
9 support the litigation, yes. Have we raised money
10 because they support more generally what we do, yes.
11 Have we raised money because they support our
12 education efforts, the non-litigation efforts, the
13 research efforts, yes, that too. But people don't
14 send us a check saying, you know, 30 percent of this
15 is for litigation, and 40 percent of it is for
16 education.

17 BY MR. TYSON:

18 Q Let me go back to Exhibit 8. This is page
19 17 of the schedule A on the 2019 990.

20 A Yes.

21 Q You'd agree with me that from 2016 through
22 2019 support for CGG went up every year, right?

23 A During that period, but -- yes.

24 Q Curling was filed in 2017, correct?

25 A Correct. I was just -- I was just

1 thinking about the prior period where I believe we
2 put in, like, \$700,000 or something like that that's
3 not showing on here, but during that period of time
4 that you referenced, 2017, '18, and '19, yes,
5 donations did go up.

6 Q All right. Let's move on to topic 7,
7 which will be a very brief one. Topic 7 is the
8 activities or expenditures the organization plans to
9 undertake in the future related to the laws,
10 policies, and protocols challenged in this action if
11 it is unsuccessful in achieving relief through this
12 action.

13 Do you see that?

14 A I do. And I think we had an objection on
15 that or -- yeah.

16 Q There's a statement.

17 A Yeah, a statement, right.

18 Q Yeah.

19 A And, you know, in terms of -- undertake in
20 future related to this action. We have not made
21 specific plans, you know, in the event that we are
22 unsuccessful. We'll certainly keep what we're doing
23 on the education front and the lobbying front, but
24 have we tried to make specific plans on that, no. I
25 would expect that that relates to Georgia --

1 Q Sorry, if I can just pause you for a
2 second. I have to ask my -- you're the designee for
3 topic 7, correct?

4 A Correct.

5 Q And I'm assuming, based on what you just
6 said, there were no documents or anybody you spoke
7 with to prepare for this topic, correct?

8 A That's correct.

9 Q And so my only question is if the lawsuit
10 is unsuccessful, I'm assuming CGG will continue
11 filing lawsuits about election systems, right?

12 A I don't know about that, but, you know, I
13 wouldn't say -- I wouldn't say yes to that. If the
14 lawsuit were to be unsuccessful, we will continue
15 activities related to BMDs, the Dominion system,
16 audits, and those activities would be of the type
17 we've talked about: Education, lobbying, working
18 with our voting members to try to find ways we would
19 be promoting absentee ballots, that sort of thing.
20 That would happen, but not necessarily filing
21 another lawsuit.

22 Q That's all we need to do for number 7.

23 Go off the record for just a second.

24 THE VIDEOGRAPHER: The time is 3:41 p.m.

25 We're off the record.

1 (Recess 3:41-4:00 p.m.)

2 THE VIDEOGRAPHER: The time is 4 p.m.

3 We're on the record.

4 BY MR. TYSON:

5 Q Thank you, Ms. Marks. We'll move on to
6 topic number 8 here, which is the total expenditures
7 of the organization on activities related to this
8 action since the organization began participating in
9 this litigation.

10 And you are the designee for topic 8,
11 correct?

12 A That's correct.

13 Q And did you review any documents to get
14 ready for this particular topic?

15 A Yes.

16 Q And what documents did you review?

17 A I primarily looked at the 990s which we've
18 been looking at today.

19 Q Anything else?

20 A I did not look at the exhibit that you
21 talked about -- or, excuse me, the document you
22 talked about before, which was the -- our
23 applications for attorneys' fees. I did not end up
24 going through all that but knew that that is in the
25 record.

1 Q Any other documents you looked at?

2 A No, I don't think so.

3 Q And did you speak to anybody connected
4 with CGG to prepare for this topic in particular?

5 A No.

6 Q So are the attorneys' fees that CGG has
7 paid so far reflected on its 990s? And when I say
8 "paid," I mean -- let me step back for a second.
9 I'm going to ask you about the attorneys' fees that
10 have actually been paid by CGG at this point. Are
11 those all reflected on the 990s?

12 A Except for those that have been incurred
13 since our last filing of the 990s.

14 Q And do you know what --

15 A It ended in 2020.

16 Q Do you know what the number is since the
17 filing of the last 990?

18 A I do not. I know that the accountants are
19 trying to close out the 2021 right now, and I do not
20 know what those numbers are. It would be roughly at
21 the same type of levels that we've been looking at
22 for the last couple years. Nothing dramatically
23 changed since that time.

24 Q And as you know, obviously, attorney fees
25 are an issue with the Coalition seeking to recover

1 fees in this case. Do you know the amount -- total
2 amount so far the Coalition is seeking to recover in
3 fees?

4 A You know, seeking to recover where we have
5 requested the Court to award fees where the request
6 has already been made I assume is what you're
7 talking about, and what I remember right now is that
8 the total of fees and expenses, not just attorney
9 fees, is a little over 1.6 million, I believe. But
10 do I remember right now how that breaks down into
11 attorneys' fees or litigation support, I actually do
12 not, but assume that is well and accurately
13 documented in the record.

14 Q Thank you for that.

15 My specific question really is: Do you
16 know what the amount is -- post the filing for fee
17 recovery the amount the Coalition will seek to
18 recover up to the present day of fees?

19 A I do not know that number.

20 Q Do you know who would know that number?

21 A There will be no one person that would
22 know what we would plan to file for in the future
23 because that is going to be a combination of legal
24 bills from three different attorneys at least.

25 Q Let's go to topic number 9, which is the

1 nature of membership in the organization, including
2 how individuals become members, any obligations of
3 members, and any benefits offered by the
4 organization to its members. And you are the
5 designee for topic 9, correct?

6 A I am.

7 Q And did you review any documents to get
8 ready for this particular topic?

9 A No, I did not.

10 Q Did you speak to anyone affiliated with
11 CGG to prepare for this particular topic?

12 A Jeanne Dufort and I might have talked
13 about this topic. I believe we did.

14 Q Can you think of anybody else besides
15 Ms. Dufort?

16 A No, not that I would have talked to about
17 this topic.

18 Q What I want to do is start back to the
19 third amended complaint, which is Exhibit Number 3.

20 A Mr. Tyson, that would be in addition to
21 counsel. Okay?

22 Q Certainly. And I apologize, I don't
23 definitely want to discuss theories with counsel.

24 I want to ask you in paragraph 19 of the
25 third amended complaint, the Coalition says:

1 Individuals become members of Coalition by providing
2 their contact information and indicating a desire to
3 associate with the organization.

4 Is that still an accurate explanation of
5 how an individual becomes a member of the Coalition?

6 A It is generally, but it shouldn't be
7 thought of as some kind of precise universal form of
8 how people associate with the organization. Many
9 times it's a phone call to me saying, hey, I want to
10 be part of what you're doing and count me in. It's
11 not like there's some form that they fill out for
12 contact information. And so, you know, our members
13 come to us in any variety of rather informal means.

14 Q So if someone called you and said, I want
15 to be part of what you're doing, would you consider
16 that -- is that person then a member of CGG from
17 that point?

18 A Depending on how they express it, yes.
19 Then what I would do is say, hey, Mary Eberle, you
20 know, put them on our mailing list, and here's who
21 they are.

22 Q I'm not -- I want to be clear I'm not
23 asking you for this, but does CGG maintain a list of
24 its members?

25 A I will have to say that our list

1 maintenance has kind of gone by way of many of our
2 other administrative activities. It is -- no, we --
3 we do not have a current list. The list that we
4 have are -- it's outdated. I know it has deceased
5 people on it. It hasn't been updated in quite a
6 while.

7 Q Okay. And so how would CGG go about then
8 right now determining if someone is a member or not?

9 A If it were important, as I heard one
10 person express, hey, being part of CGG is kind of
11 like -- it's a lot like being a member of the
12 Libertarian Party or Republican Party or Democratic
13 Party, there are no real requirements to, you know,
14 you've got to pay fees. No, there are no fees.
15 And, you know, people -- people come and go as they
16 may favor what we're doing or get irritated with
17 what we're doing, and so there is not some kind of
18 strict you're in or you're out.

19 For purposes of this litigation when it is
20 necessary to demonstrate that somebody really is an
21 active member of the organization, we make sure that
22 that is clear, and we put it in declarations, et
23 cetera, but other than that, we do not have rigid
24 requirements.

25 And one reason we don't need to do that is

1 because there are no dues that go along with it.

2 Say, like, NAACP has dues requirements. We don't

3 have that.

4 Q Is there any affirmative obligation on the
5 part of anyone to stay a member of CGG?

6 A Certainly not.

7 Q In paragraph 19 you say that members
8 receive informational communications from Coalition.
9 Does the Coalition or CGG consider everyone who
10 receives informational communications from them to
11 be a member?

12 A No. No.

13 Q Does CGG have a separate list for
14 informational communications for members and
15 non-members?

16 A That's not really the way that we would --
17 we have multiple different, for example, e-mail
18 lists, and so we don't divide it up into members,
19 non-members.

20 Q And so the various e-mail lists, there's
21 no members e-mail lists out there, correct?

22 A There is an e-mail list that we -- that
23 would include all of the members, but it also
24 includes other people who we -- who would kind of
25 fall in that category of friends and people who

1 might be potential members, but it's -- I don't
2 remember exactly what we call that e-mail list.

3 Q But you couldn't distinguish on that
4 e-mail list between someone who's a member and
5 someone who's a friend essentially?

6 A Or somebody who -- or even somebody who
7 has said, I don't want to have anything to do with
8 you guys anymore. No, there's not -- on that e-mail
9 list there would not be a way to determine that.

10 Q When you say "determine that," you're
11 referring to there's no way to --

12 A Determine who would just say, oh, this guy
13 told us to get lost, and he's not a member anymore.

14 Q Got it. No way to distinguish members and
15 non-members on that --

16 A Not on that e-mail, that's correct.

17 MR. MCGUIRE: Marilyn, I'm just going to
18 ask you let him finish his questions and don't talk
19 over him.

20 A Sorry. Apologize.

21 MR. MCGUIRE: Thanks.

22 MR. TYSON: Thank you, Rob.

23 BY MR. TYSON:

24 Q So I want to ask you next, you say:
25 Members can benefit from Coalition's facilitation of

1 members' individual participation in civic
2 activities that are germane to the organization's
3 purpose, such as poll watching, auditing election
4 results, and publishing opinion pieces.

5 Do you see that?

6 A I do.

7 Q And can non-members also benefit from
8 Coalition's facilitation of participation in civic
9 activities that you listed here?

10 A Of course we believe everyone could
11 benefit from that work.

12 Q And can -- referring to this last
13 sentence, can non-members utilize Coalition as a
14 resource to answer a wide range of questions about
15 voting rights, voting processes, open meetings law,
16 public records law, petition process- -- recalls,
17 petition processes, election legislation, and how to
18 challenge election issues they encountered?

19 A Certainly, you know, not everybody has to
20 be a member who we talk to, and so, yeah, we would
21 hope to be of service to people who we would hope to
22 recruit as members or whether it's press,
23 legislators may utilize Coalition in that way as
24 examples.

25 Q So the categories alleged in the last

1 sentence of paragraph 19 are not limited to members,
2 they're anyone who wants to reach out and you're
3 willing to help?

4 A Let's add that part that says people who
5 reach out and we are willing to help. Do we help
6 everybody who calls? Absolutely not. And we've
7 gotten a lot of calls this past -- since November of
8 2020 from -- from people we chose not to help.

9 Q Let me direct you to what we marked as
10 Exhibit 26, and this is an e-mail that was produced
11 to us, communications it looks like between Brian
12 Blosser and Marilyn Marks in January of 2018.

13 (Exhibit Number 26 was marked for
14 identification.)

15 BY MR. TYSON:

16 Q Do you see that?

17 A I do.

18 Q And do you recall -- have you seen these
19 e-mails before?

20 A I have. It's been a while since I looked
21 at them, though.

22 Q And what I want to ask specifically about
23 is in your message apparently to Mr. Blosser, you
24 say -- you ask him: Would you consider letting us
25 use that in our case in federal court? All that you

1 would -- we would need is for you to be willing to
2 testify as to what happened and to be a member of
3 our organization. There are no membership fees or
4 anything like that.

5 Do you see that?

6 A Yes.

7 Q And is that an accurate statement of, as
8 we've been discussing, how someone becomes a member?

9 MR. MCGUIRE: Object to form.

10 A No, we don't ask people to come testify in
11 federal court to become a member.

12 BY MR. TYSON:

13 Q But it is correct that there are no
14 membership fees or anything like that to be a member
15 of CGG, correct?

16 A There are no membership fees, and what I
17 was just generally and informally saying here is you
18 don't have to write a check to be part of CGG.

19 Q And is Mr. Blosser currently a member of
20 CGG?

21 A We have not communicated with him in a
22 while. I believe that he may have moved out of
23 state and haven't heard from him in a while.

24 Q So today you don't know whether
25 Mr. Blosser is a member or not?

1 A You know, there's no reason to think he's
2 not a member. I'm just trying to say that I haven't
3 had any recent communication with him. He may be
4 back in Georgia for -- because I know that was his
5 intention to return, but we just haven't heard from
6 him much.

7 Q He wasn't a member when this lawsuit was
8 filed, correct?

9 A No, not -- I think that is -- that's
10 correct, he was not.

11 Q Let me ask you next what I've marked as
12 Exhibit 27. These are the Coalition Plaintiffs'
13 responses to interrogatory -- supplemental response
14 to interrogatory number 12.

15 (Exhibit Number 27 was marked for
16 identification.)

17 BY MR. TYSON:

18 Q Do you see that?

19 A Yes.

20 Q And do you recall did you verify these
21 interrogatories, or do you know?

22 A I don't think that I have verified the
23 interrogatories.

24 Q Okay. The interrogatory asked to identify
25 all members of the Coalition for Good Governance

1 that are residents of the state of Georgia, the date
2 their membership began, and, if applicable, the date
3 their membership ended.

4 Do you see that?

5 A Yes.

6 Q And the response is a list of members upon
7 whom CGG will rely to establish associational
8 standing and their dates of membership. With me so
9 far?

10 A I am, and I'm realizing that Brian
11 Blosser -- I think the question was -- if you scroll
12 up, I think it says Georgia.

13 Q Yes.

14 A And I realize that he might not be a
15 resident of Georgia anymore. I think I missed that.

16 Q And the other date, the date that the
17 membership began and Mr. Blosser indicates 2017, but
18 the e-mail we just looked at you were talking about
19 him becoming a member in 2018.

20 A Right. Right. I -- that's just an error.

21 Q So Mr. Blosser, should he not be on this
22 list?

23 A He should still be on the list, but I
24 think it should be 2018 as the member.

25 Q Okay. And do you have -- I think I know

1 the answer based on what we just talked about, but
2 Mr. Blosser's inactive status, there's no particular
3 method by which you track active or inactive
4 members, correct?

5 A No -- that is correct. I didn't mean to
6 say "no." We do not track anything like an inactive
7 status. It was just more a note of I haven't talked
8 to him in quite a while. Many of these other people
9 I would talk to frequently.

10 Q Understood.

11 Let me go next to another set of
12 interrogatories. So these I marked as Exhibit 28
13 are the Plaintiff Coalition for Good Governance
14 Responses to Defendant Anh Le's First
15 Interrogatories.

16 (Exhibit Number 28 was marked for
17 identification.)

18 BY MR. TYSON:

19 Q Do you see that?

20 A I do.

21 Q And do you recall these interrogatories in
22 the Curling case?

23 A Barely.

24 Q I'm just going to ask you about one.

25 A Okay.

1 Q Interrogatory number 13, the Coalition was
2 asked to identify the responsibilities or
3 obligations entailed in being a member of Coalition
4 for Good Governance and any benefits conferred by
5 such membership.

6 Do you see that?

7 A I do.

8 Q And you give an answer -- Coalition gives
9 some answers here. Does every member of the
10 Coalition for Good Governance have to work together
11 to promote the goals of the organization?

12 A No.

13 Q Does --

14 A It's not meant -- that was not meant to be
15 an obligation.

16 Q Okay.

17 A It just meant to be basically about the
18 spirit and the benefits of being a member, not an
19 obligation of a member.

20 Q Okay. Does CGG provide voter education
21 for individuals who contact it who are not members?

22 A Not every person, but yes, many people we
23 do.

24 Q Okay. Does CGG provide non-members with
25 poll watcher training?

1 A Yes, we have.

2 Q Does CGG provide non-members with
3 education for citizen lobbying on election-related
4 matters?

5 A Let me go back to my previous answer.
6 That is not to say that we have been able to honor
7 all of the requests for poll watching training that
8 we have received. Particularly this past year,
9 particularly since SB202 went into effect, and I
10 believe there are some requirements on poll watching
11 training we have actually had to say no to people.

12 So I don't -- when we say we do provide
13 that, it's not -- and we would give non-members
14 training as well, it's not meant to say we're able
15 to honor all the requests.

16 Q Certainly. And my question was just
17 limited to is this something that you do for both
18 members and non-members.

19 A Correct, yes, we would.

20 Q And so CGG would provide non-members with
21 education for citizen lobbying on election-related
22 matters?

23 A Well, yes, because we would -- we would
24 maybe do special things for members, yes, special
25 focus they would reach out with communications for

1 them, but certainly we are not going to say that
2 it's only limited to members because we would -- we
3 would be talking to the press about some of these
4 things, we'd be talking to legislators themselves.
5 So we're not trying to say that our efforts are
6 limited to just what we would communicate with
7 members.

8 Q You say at the end here that the foregoing
9 benefits are examples but not all of the types of
10 benefits that CGG provides to its members.

11 A Correct.

12 Q What other types of benefits -- or,
13 actually, let me ask it this way: Does CGG provide
14 benefits to its members that it does not provide to
15 non-members?

16 A Let me give you one example. That answer
17 would be yes, and it's not meant to be a, you know,
18 we don't want to help anybody else-type thing.

19 Obviously we exist to grow our membership,
20 to -- and to try to be helpful to the public, you
21 know, it is really based on public policy efforts is
22 why we exist.

23 But, for example, something we would
24 use -- we would work with members specifically on
25 would be we mentioned the efforts that we make at

1 asking the State Election Board to promulgate
2 specific rules that we draft, that we work on
3 internally, and then we use our members to present
4 on behalf of other members, and we present them that
5 way to the State Election Board in the formal
6 process that's required by statute where we have to
7 have the form notarized, we are speaking on behalf
8 of members per se, and we only use members to do
9 those formal communications.

10 So that would be an example of a benefit
11 the public policy advocacy that we do on behalf of
12 members and with members exclusively.

13 Q So besides the public policy advocacy you
14 do on behalf of members, is there any benefit
15 provided to members of CGG that would not also be
16 provided to non-members upon request?

17 A Upon request. Yes. Yes, I mentioned to
18 you that we have had lots of calls this past year
19 from people who wanted to make demands on our time
20 concerning their challenges to -- and I don't mean
21 legal challenges, but their -- their challenges to
22 the 2020 election, and we have declined to spend the
23 kind of time with them that we would with our
24 members on the kinds of efforts that they wanted us
25 to try to contribute to educate them on. We just

1 don't have enough time in the day to do that.

2 Q I'm sorry.

3 A Sorry, I'm done.

4 Q And are those individuals you're referring
5 to people who were challenging the outcome of the
6 2020 presidential election?

7 A When we say challenging, let's say not in
8 a formal way, but let's -- criticizing -- sending
9 disinformation. We've had lots of requests for
10 information that we have that might benefit some of
11 those claims, some of those inappropriate claims
12 that we've said no to.

13 Q So I understand that you -- there would be
14 times when you would deny a non-member a request.
15 Are there particular benefits to members aside from
16 the public policy advocacy you discussed that would
17 not be provided to a non-member solely because they
18 are not a member?

19 MR. MCGUIRE: Object to form.

20 A For example, yes, something like if
21 someone wanted a mailing list of members that we
22 had -- if they wanted contact information for some
23 of our members, you know, I'd be very selective as
24 to who I gave that to. If they wanted a group of
25 people that I thought might be interested in a

1 particular topic in a certain county where we have
2 relationships and members, I wouldn't necessarily
3 turn that over to a non-member but generally would
4 to a member. Something of that -- none of this is
5 written up as a policy, but I'm trying to tell you
6 the kind -- the ways that we would treat a member
7 and a non-member differently as an example. I'm
8 sure that's not the only example.

9 BY MR. TYSON:

10 Q Could every member obtain the contact
11 information of every other member?

12 A Certainly not, no. I would generally get
13 permission from members that if somebody says, hey,
14 we're trying to get a petition started in Cobb
15 County to do X related to election administration,
16 would you give me some of the members that are
17 active there, I would check with them first and then
18 do that. But would I do that for a non-member, it
19 would depend on the circumstances, but generally
20 not.

21 Q Let's move to topic number 10, Exhibit A,
22 whether and how the organization determined if any
23 of its individual members are impacted by the laws,
24 policies, and protocols challenged in this action.

25 And you are the designee for topic 10,

1 correct?

2 A I am, yes.

3 Q And did you review any documents
4 specifically for this topic of your testimony?

5 A I did not.

6 Q Did you speak with anyone associated with
7 CGG specifically to prepare for this testimony?

8 A No, I did not. Now, when I'm saying I
9 didn't speak with anybody about it, I sent the
10 topics out but only talked about things that people
11 said they had something to talk about. It wasn't
12 that they didn't see the list; it's just we didn't
13 talk about number 10.

14 Q To whom did you send the topic list?

15 A I sent it to Mary Eberle, to Rutledge
16 Forney, Jeanne Dufort, Aileen Nakamura, I may have
17 sent it to Lisa Cyriacks, but I -- I don't remember
18 for sure.

19 Q And then --

20 A I did not get a chance to talk with Lisa.

21 Q And then your practice was if somebody had
22 something to contribute they reached out to you or
23 did you reach out to them, how did that --

24 A I reached out to them, or if I didn't get
25 them I told them to call me back.

1 Q And then in having a conversation with the
2 individuals to whom you sent the topic list, did you
3 ask them about each topic, or did you just wait to
4 see if they had specific --

5 (Simultaneous speaking.)

6 A I asked them to read the whole thing and,
7 you know, let's discuss any that they felt like that
8 they might have information that I might have
9 forgotten about or was not aware of. And we did not
10 go through topic by topic, and, you know, the
11 conversations differed by individual as to how --
12 how deeply we got into it.

13 Q So let me ask then, has CGG determined if
14 any of its individual members were impacted by the
15 use of Dominion BMDs or other practices challenged
16 in this action?

17 MR. MCGUIRE: Object to form.

18 A Yes.

19 BY MR. TYSON:

20 Q And what is that determination?

21 A Well, I think it is pretty well documented
22 in the documents that we have filed in the case.

23 Q Is it correct that -- I'm sorry.

24 A I'm sorry, I talked over you. You go
25 ahead. Go right ahead.

1 Q In referring to the documents you filed in
2 the case, is CGG relying on the impact on all
3 Georgia voters for determining there was an impact
4 on its members?

5 A No.

6 Q Okay. What specifically -- how
7 specifically have CGG members been impacted by the
8 practices challenged in this action?

9 A Well, I think you -- we need to talk about
10 each individual that you're referring to here
11 because there's not a one-size-fits-all type of
12 injury.

13 Q Okay. Well, let's go to Exhibit 27 then.
14 How has Mr. Blosser been impacted by the practices
15 challenged in this action?

16 A So if I recall Mr. Blosser's situation, it
17 was that he attempted to vote in the 2017
18 Congressional District 6 election, and when he
19 arrived at his polling place, even though it was the
20 same polling place, and he was voting from the same
21 address as he had been for years, the pollbook
22 showed that he was not an eligible elector, and he
23 was not permitted to vote even by provisional
24 ballot. He was turned away even though he was an
25 eligible registered elector who had not previously

1 voted, and it appeared to be the so-called software
2 glitch in the Express pollbooks that caused
3 Mr. Blosser not to be able to vote, is my
4 understanding.

5 Q What is the impact on Ms. Clark in
6 Gwinnett County?

7 A The -- I can name at least one instance,
8 but I would expect that there are more, and that the
9 one I'm remembering is that she went to vote, and
10 there were problems again with the ExpressPoll units
11 where she was told that, no, you are not registered
12 here, you're supposed to be at a different polling
13 location. And she argued with them for quite a long
14 time. They kept saying no, no, no, you have to go
15 to a different polling location. She knew that she
16 did not belong at a different polling location.

17 She spent an extraordinary amount of time
18 and energy talking to person after person, calling
19 the Gwinnett office, and eventually for some reason
20 they claimed, well, wow, your name just popped up
21 now in the book, and now you can vote.

22 But, of course, we never knew what caused
23 the name to just now -- and I'm saying in quotes
24 just now pop up in the book, and that she was denied
25 time after time after time the ability to vote at

1 her home polling location. We do not know the
2 nature of that particular glitch. But her injury,
3 of course, was all of the difficulty that she went
4 through because of that -- because of the error.

5 Q Before we continue on the list, how did
6 CGG go about determining that these members listed
7 in Exhibit 27 were affected by the practices it
8 challenges in this case?

9 A I'm not sure that I exactly remember how
10 we did that. I'm sure I to some extent worked from
11 memory. I might have gone back through some of the
12 declarations that had been filed. But it would
13 have -- and then it could have been -- I believe I
14 worked with our attorney Bruce Brown on this, and I
15 believe he might have been referencing some of his
16 notes and documents as well.

17 Q And did CGG engage in this process of
18 determining which members were impacted in 2022 or
19 at some point before that?

20 A Well, I think you're aware that many of
21 their declarations were dated back to 2017 or '18
22 and in subsequent years, and so I don't think we
23 have -- I don't remember that we filed anything in
24 2022 with any declarations from any of them -- these
25 members.

1 Q And my question was specifically the
2 process you just described with Mr. Brown and
3 working through the process of determining which
4 individuals would be listed. Did that process take
5 place in 2022 or at some point earlier?

6 A I think it would have probably taken place
7 at various times in the planning of the various
8 supplemental -- I don't mean -- probably the
9 supplemental complaint, the motions for preliminary
10 injunction, you know, various documents along the
11 way, things that we have filed we have selected some
12 of the members who have brought us complaints that
13 we used to have developed declarations.

14 And I think -- I believe what we did here
15 is selected from declarations. Certainly wasn't
16 meant to be every potential allegation that we've
17 ever heard.

18 Q And my specific question is: When was
19 this list selected from --

20 (Simultaneous speaking.)

21 A And I'm telling you that that list would
22 have been put together by Bruce Brown on the second
23 day of February, but I don't think it happened on
24 that day. It would have been growing over time.

25 Maybe I'm not answering your question very

1 well, but it was -- it was finalized on the second
2 day of February.

3 MR. MCGUIRE: Can I object here, Bryan? I
4 think there may be some miscommunication. Are you
5 asking about the preparation of this document that
6 you're looking at, or are you talking about this
7 list in some other form?

8 MR. TYSON: What I'm trying to
9 determine -- I'm trying to dig into the
10 determination of which of the members were impacted,
11 and we have a list of the people who were impacted
12 that was given to us on February 2nd. I'm trying to
13 determine when were these people identified as
14 members who were impacted. That's what I'm trying
15 to get at. Is that -- is that coming through in the
16 questions?

17 MR. MCGUIRE: Marilyn, if it's clear to
18 you, go ahead and answer.

19 A I'll try. I think I'm understanding you,
20 but, for example, Shea Roberts, I don't remember the
21 date of her declaration. I'm assuming that there
22 were a number of things that she was concerned
23 about. I do believe secret ballot was one of them.

24 I'm assuming that the date of the
25 particular injury that would have been used as an

1 example here of members' injuries would have been in
2 the declaration, and at the time of preparing the
3 declaration we would have been referencing back to
4 that injury. But we would have heard about that
5 injury before the date of the declaration.

6 So there is no -- I don't think there is
7 any one answer for when were these injuries
8 determined. They were determined at various times
9 as they happened over the course of the last
10 four-plus years.

11 BY MR. TYSON:

12 Q So turning back to Exhibit 27, is it -- is
13 it your testimony that there are declarations or
14 affidavits from each of these 16 individuals that
15 have been filed in this case or just that you are in
16 possession of declarations or affidavits for each of
17 these 16 individuals?

18 A No, I actually -- I don't think that each
19 of them has -- I don't believe that we -- that we
20 asked Mr. Blosser to file a declaration. Ricardo
21 Davis, I don't remember whether it was a
22 declaration. You have his testimony in a
23 deposition. I don't believe that we completed the
24 declaration of Ashley Walker, but others I believe
25 have filed declarations.

1 Q Do you know whether all 16 of these
2 individuals voted on BMDs in 2020?

3 A Oh, goodness, I would not know that. I
4 don't think I ever knew that. And if I did know, it
5 would be -- I would have forgotten it. But I'm sure
6 that not all of them did.

7 And you're talking about for the entire
8 year of 2020?

9 Q Any 2020 election, yes.

10 A You're asking me -- do you mind repeating
11 the question?

12 Q Do you know whether the 16 individuals
13 listed in Exhibit 27 voted on BMDs in any election
14 in Georgia in 2020?

15 A I know that not all of them voted on BMDs
16 in 2020, and I know that some of them did have to
17 vote on BMDs during 2020.

18 Q Do you know whether these 16 individuals
19 plan to vote on BMDs in Georgia in any election in
20 2022?

21 A From what they have told me, I think most
22 of them, and, again, like Mr. Blosser I haven't
23 talked to in a long time, and he may not live in
24 state, but most of the people generally feel that
25 they want to avoid voting on BMDs if at all

1 feasible, possible, if they get their mail ballots
2 on time. For most of them they believe that mail
3 ballots are a more secure form of voting.

4 Q And CGG advises its members to vote using
5 absentee by mail ballots, correct?

6 A Generally, yes. It may not fit everyone's
7 particular circumstance, but yes, it is preferable.
8 We do not like mail ballot voting generally, and, of
9 course, I'm over-generalizing here. Generally we
10 don't like mail ballot voting, but we believe it is,
11 with all its difficulties, preferable to voting on
12 BMDs.

13 Q What is the injury that Ms. Forney
14 suffered?

15 A I'm not necessarily referring to a
16 specific declaration. I'm -- because I didn't
17 review that declaration, but I can tell you
18 generally that she is highly upset about the lack of
19 privacy in voting.

20 She is a prominent physician in town and
21 has often run into her patients in polling places,
22 and she -- she wants her privacy as to who she's
23 voting for. And generally she tries to vote by
24 absentee mail ballot but hasn't always been able to
25 get the ballot back in time, get the request in in

1 time.

2 So I know that one of her -- one of her
3 concerns is privacy, and I also think that the --
4 just the hassle of -- and particularly in Fulton
5 County of trying to get a mail ballot and get it on
6 time has been an injury that she has experienced.

7 There may be others that I'm not
8 remembering from her declaration right now. I did
9 not review all these declarations before -- before
10 this -- before this deposition today.

11 Q And I believe you indicated Ms. Walker did
12 not submit a declaration; is that right?

13 A That is correct.

14 Q And what is Ms. Walker's injury?

15 A It would also be ballot privacy or ballot
16 secrecy. And she has voted on BMD and complained to
17 me about the lack of privacy in the BMD.

18 Also, you know, she knows about the
19 security concerns and is concerned about whether or
20 not her vote is counting properly.

21 Q Ms. Walker is also indicated as a member
22 from August of 2014.

23 A Yes.

24 Q Did she join the organization at the time
25 it was still the Rocky Mountain -- sorry, I've lost

1 the name.

2 A Foundation. Rocky Mountain Foundation.

3 Q Rocky Mountain Foundation?

4 A Yes.

5 Q In the interest of time let's keep moving
6 here. For the moment, Ms. Marks, I'm going to skip
7 over 11. We may come back to it if we have time.

8 Let me go to topic number 12, which is the
9 organization's communications with any county
10 government regarding the laws, policies, and
11 protocols it challenges in this action, from January
12 1st, 2017, to the present, including any other
13 litigation filed against a county entity during that
14 time regarding the laws, policies, and protocols
15 challenged in this action.

16 And you are the designee for topic 12,
17 correct?

18 A Correct.

19 Q And did you review any documents
20 specifically for topic 12?

21 A Not any documents, no, I did not.

22 Q Did you speak with anyone associated with
23 CGG besides your counsel to prepare for topic 12?

24 A No, not specifically, but we didn't really
25 discuss this topic. I think there was some mention

1 by Ms. Dufort on the ballot secrecy -- wait a
2 minute. Let me see if -- regarding laws, policies
3 challenged in this action.

4 She had mentioned the Sumter County
5 lawsuit, but I don't guess that is really what
6 you're asking about here. It just happens to have
7 secret ballot with respect to both of those -- both
8 of those cases.

9 No, I didn't have extensive discussions on
10 communications with county governments.

11 Q CGG has communicated to county election
12 officials to urge them not to use Dominion BMDs,
13 correct?

14 A Not to use them other than for
15 accessibility purposes. And the answer was yes, we
16 have.

17 Q And then you've kind of anticipated my
18 question. Has CGG filed any litigation against any
19 county government officials related to the election
20 practices challenged in this case from January 1st,
21 2017, to the present?

22 A The answer --

23 MR. MCGUIRE: Just to clarify you mean
24 apart from this case, Fulton being a defendant here?

25 MR. TYSON: That's a good call, Rob.

1 BY MR. TYSON:

2 Q Apart from Curling has CGG filed any
3 litigation against county government officials
4 related to the election practices challenged in this
5 case from January 1, 2017, to the present?

6 A Okay. So when we say "related to," while
7 certainly the burdens of absentee balloting are
8 related to both the injuries in the Curling case and
9 also to the core claims in the Gwinnett case, Martin
10 case on absentee balloting, I'm assuming that's not
11 really what you're talking about here. I'm assuming
12 that it was something that would have the overlap,
13 say, of the ballot secrecy claims. In Sumter County
14 we filed a ballot secrecy challenge there, and that
15 ballot secrecy is also covered in the Curling case.

16 And I'm trying to think if I've
17 forgotten -- on what we call our COVID case, I don't
18 remember that -- I don't think there were any
19 counties that were defendants on that.

20 Q So --

21 A Yeah.

22 Q Sorry. So besides the Sumter case, that's
23 the ballot secrecy case, are there any other ballot
24 secrecy cases the Coalition has filed against
25 counties that are not in Curling?

1 A Not -- not litigation per se, that's
2 correct.

3 Q Has Coalition filed any other types of
4 actions against county officials related to ballot
5 secrecy?

6 A No types of administrative actions other
7 than some time ago we did file a HAVA complaint that
8 referenced county ballot secrecy violations, but
9 the -- according to Georgia's law, HAVA complaints
10 have to go to the Secretary of State, and it was
11 really -- we did not choose any one county, I don't
12 believe, that we were alleging. We just gave -- we
13 gave examples from numerous counties, but really the
14 respondent was meant to be the Secretary of State.

15 Q And what was the outcome of the Sumter
16 case?

17 A Really because of lack of resources we
18 made a voluntary withdrawal and closed the case.

19 Q And no relief was granted in that case,
20 correct?

21 A That is correct. The good news was,
22 though, that the lawsuit itself caused the Sumter
23 County election officials to actually go take care
24 of the problem in the vast majority of the polling
25 places. They were able to either get new polling

1 places or rearrange the polling places. And so
2 during the pendency of the challenge, many of the
3 problems got solved because we challenged.

4 Q Let's move to topic 13, which is
5 communications between the organization and any of
6 the co-plaintiffs, its individual member plaintiffs,
7 its other members, and other advocates or advocacy
8 organizations concerning this litigation or concerns
9 regarding vulnerabilities in electronic voting
10 systems.

11 And you are the designee for topic 13,
12 correct?

13 A I am.

14 Q And did you review any documents
15 specifically to prepare for this aspect of the
16 deposition?

17 A No.

18 Q And did you speak with anyone associated
19 with CGG specifically to prepare for this topic?

20 A No.

21 Q So I am not asking -- I want to be clear,
22 I know Mr. Cross has reserved rights here, I'm not
23 asking communications where counsel was present or
24 where you had a common interest agreement that
25 prohibited disclosure, but has CGG communicated with

1 other advocates and advocacy organizations about its
2 concerns with electronic voting equipment?

3 A Yes.

4 Q And were those communications in writing,
5 in person; how were they made?

6 A Well, there are going to be such a variety
7 of communications with other people, organizations,
8 advocates that about every kind of communication,
9 you know, phone calls, Zoom meetings, text messages,
10 e-mails, letters. We're talking about such a broad
11 topic here that, you know, there would be thousands
12 of such communications over the -- over the last
13 many years.

14 Q Understood.

15 What I want to do is ask you about a
16 couple in particular.

17 (Exhibit Number 29 was marked for
18 identification.)

19 BY MR. TYSON:

20 Q Marked as Exhibit 29, a Joint Litigation
21 and Common Interest Agreement between the Coalition
22 and Fair Fight Action and Care in Action.

23 Have you seen this document before?

24 A I'm sure I have, but probably not since
25 the date it was signed.

1 Q Okay. And this is an agreement between
2 Fair Fight Action and CGG among others, right?

3 A Yes.

4 Q And it looks like it was signed in January
5 of 2019?

6 A Yes.

7 Q Has this agreement been terminated?

8 A You know, I don't know. That would be a
9 question for counsel that I don't know the answer
10 to.

11 Q Okay. Do you know if CGG still has a
12 common interest privilege with Fair Fight?

13 MR. MCGUIRE: I'm going -- we're going to
14 assert that we do still have a common interest.
15 These agreements have not terminated to my
16 knowledge, so we're going to continue to operate
17 under the assumption that they're operative.

18 And just wanted to -- if you're going to
19 get into specific communications, I did just want to
20 reiterate that document 1203, the order of the
21 Court, provides that State Defendants can ask
22 relevant questions about the substance of
23 conversations that plaintiffs have had with other
24 parties through the course of their advocacy work
25 generally, but that specifics the Court held would

1 impinge on First Amendment rights, and so I just
2 want to reiterate that we are applying that holding
3 to ourselves as well, although it was obtained by
4 the Curling Plaintiffs, and so if you -- if you go
5 there, we have an objection on that.

6 BY MR. TYSON:

7 Q Do you understand that Fair Fight is no
8 longer pursuing its voting machine claims in its
9 case?

10 A That's my general understanding. I
11 haven't tried to confirm that by reading their
12 documents.

13 Q Okay. Have you had any communications
14 with Fair Fight Action or their representatives
15 since November of 2020?

16 A Trying to think about that for a moment.
17 It seems like I have had one conversation with one
18 of the Fair Fight employees, but I'm struggling to
19 remember what it was about. It seems like it might
20 have -- seems like it might have been upcoming
21 legislation, but I'm -- I'm just not sure.

22 Q Have you spoken with anybody at Fair Fight
23 regarding the outcome of the 2020 election?

24 MR. MCGUIRE: Excuse me. I'm just going
25 to interject and instruct my client to the extent

1 she answers this question under document 1203
2 defendants are not permitted to ask the identity of
3 anyone with whom we've spoken. So you can answer
4 the question generally, but I would instruct you to
5 adhere to the order of the Court in document 1203
6 and keep it general.

7 A Okay. And, Mr. Tyson, do you mind
8 repeating the question?

9 BY MR. TYSON:

10 Q Certainly. Have you spoken -- had any
11 communications with anyone at Fair Fight Action
12 regarding the outcome of the 2020 election?

13 A Not that I recall right now. It's
14 possible, but I'm not recalling it.

15 Q Have you had any communications with
16 anyone at Fair Fight where they explained why they
17 were dropping their voting machine claims?

18 A No, I have not.

19 Q I'm going to direct you to what we marked
20 as Exhibit 30.

21 (Exhibit Number 30 was marked for
22 identification.)

23 BY MR. TYSON:

24 Q This is a Facebook advertisement from
25 friends of Coalition for Good Governance.

1 Do you see that?

2 A I do.

3 Q And are you familiar with this
4 advertisement?

5 A I'm looking at it again to -- I don't know
6 whether -- well, I don't remember it, but maybe --
7 maybe I have seen it, maybe I haven't, but, yeah,
8 I'm generally familiar with the contents.

9 Q So who is the Friends of Coalition for
10 Good Governance there at the top?

11 A I actually don't know who controls that
12 site. There were several people who were working on
13 that at one time, and I cannot tell you all of their
14 names or who controls -- who controls that. I think
15 Aileen Nakamura is one of them, but I actually don't
16 know the others. I know she was working with some
17 friends, and I always meant to find out, and I never
18 got around to it.

19 Q Do you recall a Fair Fight Action matching
20 fundraiser that benefited CGG?

21 A I do recall that.

22 Q Okay. What was that about?

23 MR. MCGUIRE: I'm going to object to form.

24 A What was that about?

25 MR. MCGUIRE: I'm going to object to form

1 on that question. It's vague, ambiguous.

2 BY MR. TYSON:

3 Q Can you answer, Marilyn? Ms. Marks, I'm
4 sorry?

5 A I'm not really sure what you're asking
6 what was it about.

7 Q Okay.

8 A I mean, I think, you know, to the extent
9 that this is accurate it -- it was about the fact
10 that they had offered to match funding that was
11 generated during that period for our -- for the
12 Curling lawsuit. I don't remember many details of
13 it at the moment, I'm afraid.

14 Q So the -- was there any formal agreement
15 between Fair Fight Action and CGG regarding this
16 matching fundraising effort?

17 A I think it was probably -- it certainly --
18 I don't remember any kind of -- I'm sure there was
19 no kind of contract, and it was probably just an
20 e-mail, if that. It might have just been a phone
21 call.

22 Q And Fair Fight Action raised funds that it
23 then donated to Coalition for Good Governance; is
24 that correct?

25 A That is correct.

1 Q And it was specifically to support the
2 Curling case, you said?

3 A As I recall that's what this ad says, but,
4 you know, as I sit here today, I don't know whether
5 they said, look, this is because you were doing the
6 hand-marked paper ballot or if it was more general
7 as to why they -- as to why they were helping us on
8 this.

9 Q And do you recall the reason why Fair
10 Fight offered to help on this, as you just said?

11 A Well, you know, I do think --

12 MR. MCGUIRE: Hold on. I'm going to
13 object to that because I think you're starting to
14 intrude into the common interest litigation
15 agreement. I'm going to instruct her not to answer
16 that unless I understand why it's not intruding into
17 that agreement.

18 MR. TYSON: Let me understand. You're
19 asserting the common interest privilege and
20 instructing her not to answer on that particular
21 question?

22 MR. MCGUIRE: As I understood your
23 question to be getting into her understanding of
24 their motivation, and I believe that's encompassed
25 within the scope of the common interest agreement.

1 Litigation -- if we have common interest litigation
2 agreement with them, that would be within the scope
3 of that.

4 MR. TYSON: Okay. And just so we have a
5 complete record on that, you're taking the position
6 that fundraising efforts between the two
7 organizations is covered by the common interest
8 litigation agreement?

9 MR. MCGUIRE: Well, the motivation is what
10 you asked about, not -- I didn't object to the
11 questions about the fundraising arrangement, but I
12 did object to your question about the motivations.

13 MR. TYSON: Okay. Understood. And you're
14 instructing her not to answer?

15 MR. MCGUIRE: Yes, pursuant to that common
16 interest agreement and the privilege.

17 MR. TYSON: Okay.

18 BY MR. TYSON:

19 Q So just to clarify, Ms. Marks, the
20 donations were made to Fair Fight Action, and Fair
21 Fight Action transferred the funds to CGG, correct?

22 A I cannot comment on how the money came
23 into Fair Fight Action. I don't know that, but I
24 assume that it was Fair Fight Action that wrote the
25 check to us, but I'm not sure -- as I sit here

1 today, I can't tell you which -- I'm taking this at
2 face value that it was Fair Fight Action as opposed
3 to some other Fair Fight organization that sent the
4 check.

5 I assume it was Fair Fight Action, but if
6 you're asking me do I remember what the check looked
7 like, no, but I believe it was Fair Fight Action.

8 Q So just so I'm clear, Fair Fight Action
9 has donated to CGG?

10 A I believe it was Fair Fight Action. It
11 was -- it was Fair Fight in one of its forms. I'm
12 just not remembering all of their various corporate
13 forms right now.

14 Q Okay. So either Fair Fight, Incorporated
15 or Fair Fight Action?

16 A Again, I don't know all of their corporate
17 names, but what I would just generally refer to as
18 "Fair Fight." I'm sure they did it in whatever ways
19 were appropriate for their various tax-exempt
20 statuses or not tax exempt. I didn't look behind
21 that. I just tended to think of it in terms of Fair
22 Fight without knowing which fund from Fair Fight.

23 Q Do you know approximately how much Fair
24 Fight or one of its affiliated groups donated to CGG
25 in 2019?

1 A I don't remember. I was just trying to
2 think if I did remember. I don't remember.

3 Q Don't even remember a potential range?

4 A 2019? I am going to give a rough guess,
5 but it's only a rough guess at the moment, maybe
6 between 60- and 75,000.

7 Q And I'm assuming CGG would have records
8 that would reflect those donations?

9 A We do, but it's just not in my memory
10 right now.

11 Q Let me ask you along this line what I've
12 marked as Exhibit 31.

13 (Exhibit Number 31 was marked for
14 identification.)

15 BY MR. TYSON:

16 Q This is an e-mail that was produced to us,
17 communications -- and it doesn't have all the same
18 metadata, but you see the timeline is February 26,
19 2022, so recent communications, and there's a group
20 called State Audit Working Group. What is State
21 Audit Working Group?

22 A Okay. It is a volunteer group of experts
23 and semi experts from around the nation that really
24 focus on election auditing, and they have had a big
25 effort over the years in also providing advice to

1 NIST, N-I-S-T, on election security as it relates
2 to -- as it relates to auditing.

3 And so it is a group that meets weekly
4 that I used to try to meet with weekly, but I now
5 maybe make one meeting every six months because back
6 to the requirements of this litigation and other
7 Dominion Voting System issues.

8 Q This is an e-mail that indicates it's from
9 you.

10 A Yes.

11 Q And I wanted to ask you about this
12 sentence: For some strange reason Fair Fight and
13 their colleagues claim that our goal is to sabotage
14 elections.

15 Do you see that?

16 A I do.

17 Q Where did you learn that Fair Fight and
18 their colleagues claimed that CGG's goal was to
19 sabotage elections?

20 A I didn't really mean that it's Coalition
21 per se, the goal. I'm talking about our goals in
22 promot- -- "our" more collective in promoting the
23 ballot -- excuse me, public -- public records --
24 sorry, that voted ballots become public records in
25 House Bill 993 and House Bill 1464, and that's what

1 I was -- when I said "our goal," I was speaking more
2 generally than just Coalition for Good Governance
3 because I had been in contact with some of the
4 people here in the State Audit Working Group. It is
5 also their goal to see ballots as public records.

6 Q Let me ask the other page -- this is
7 another e-mail from you on Saturday, February 26,
8 and you say: Sadly, Fair Fight has gone ballistic
9 on this bill and calling those of us who promoted it
10 as attempting election sabotage.

11 You see that?

12 A I do.

13 Q So, again, is this a direct accusation
14 Fair Fight made against --

15 A No, no, it is the people who -- they were
16 making this -- I saw a press release that they had
17 made where they were talking about ballots as public
18 record or HB933 I think it was at the time as being
19 an election sabotage bill, and because we had
20 initiated that idea and promoted it last year and
21 this year, and that's what I was trying to say here,
22 those of us who promoted it as attempting election
23 sabotage as I recall, and I'm sure this is not a --
24 not a direct quote at all, the press release was
25 something about those people who are promoting H

1 Bill -- HB933 or the ideas behind it are trying to
2 sabotage our elections. I think they actually
3 called it election sabotage bill.

4 Q Have you spoken with anybody affiliated at
5 Fair Fight about --

6 A No.

7 Q -- that allegation?

8 A No.

9 (Exhibit Number 32 was marked for
10 identification.)

11 BY MR. TYSON:

12 Q I've marked another exhibit here as
13 Exhibit 32. This is an e-mail begins with you and
14 Kate Brumback but is an e-mail you sent to
15 Mr. Stark -- Dr. Stark, Dr. Halderman, Mr. Hursti,
16 Dr. Buell, Dr. Demillo, Dr. Appel, Mr. Skoglund, and
17 Ms. Greenhalgh; is that correct?

18 A Yes, it looks correct.

19 Q Do you recognize this e-mail?

20 A I don't remember it right now. I'm sure
21 it's legitimate. I'm just not remembering it off
22 the top of my head.

23 Q And this is referring to a petition, and
24 it appears that it's titled Voter's Philip Singleton
25 Dominion Ban Petition Roswell, Georgia, and the

1 subject line is, Garland's New Lawsuit Against BMDs.

2 A Uh-huh.

3 Q What is -- do you know what that's
4 referring to?

5 A Yes, Voterga and Representative Singleton
6 filed that lawsuit in -- I believe it was Fulton
7 Superior Court trying to ban QR codes on ballots.
8 Yes, it was Fulton Superior Court, and, yes, that's
9 what they were trying to do.

10 Q And it looks like you sent this e-mail
11 directly to various -- mostly experts in this case,
12 not all. Is that -- is that the group you were
13 sending this e-mail to; is that accurate?

14 A It looks that way. I don't particularly
15 recall it, but that's what the header would appear.

16 Q Okay. Is it your practice to regularly
17 communicate with the experts in this case without
18 counsel on the e-mail?

19 A Well, I was not communicating with them in
20 their role as experts. Many of them were people
21 that I have communicated with on election matters
22 for probably the last 10 years. So I was not
23 communicating with them, you know, in some kind of
24 expert advisory role.

25 Q Okay. And so if you weren't communicating

1 with them in their expert advisory role, what are
2 you -- why are you communicating with them at all on
3 this topic?

4 A Well, I mean, those of us who live in
5 Election Integrity Land all the time, you know, tend
6 to share information about all sorts of topics, and
7 so communicating with these people and the broader
8 group is not unusual on election-related topics.

9 Q Has CGG communicated with Mr. Favorito and
10 his Voterga group about his claims in this case?

11 A In which case?

12 Q In this case.

13 A I'm sorry, about our claims, okay. Oh,
14 gosh, not in a long time, we have not. Don't
15 remember the last time I talked to him.

16 Q Has any representative of CGG talked to
17 Mr. Favorito or Voterga?

18 MR. MCGUIRE: I'm going to object again.
19 Bryan, I think this is the stuff that's covered in
20 document 1203, the order from the Court about
21 specific communications being not something that
22 plaintiff should be required to answer.

23 MR. TYSON: And to be clear, my question
24 is just did communications take place, not with whom
25 or how. With that scope would you allow her to

1 answer?

2 MR. MCGUIRE: I would not because footnote
3 1 on page 5 of document 1203 says State Defendants
4 are not permitted to ask the identity of anyone with
5 whom the Curling Plaintiffs spoke about these
6 topics, and I believe when you're asking if a
7 communication occurred, I think it falls within the
8 scope of that.

9 MR. TYSON: Okay. So will you have
10 similar objections to asking about Sidney Powell,
11 Lin Wood, and Mike Lindell and their
12 representatives?

13 MR. MCGUIRE: As far as identifying
14 individuals who we've communicated with, I think it
15 falls within the scope of that order, and I don't
16 want to take inconsistent positions vis-a-vis people
17 we have contacted and people we haven't contacted,
18 so I'm just going to take a uniform position and say
19 I'd like us just to adhere to the order and not ask
20 about specific individuals but keep the questions
21 general like the Court ordered.

22 MR. TYSON: So just so the record is clear
23 then, let me just go ahead and ask about each one,
24 and you can object, and instruct her not to answer.

25 BY MR. TYSON:

1 Q Has anyone affiliated with CGG
2 communicated with Mr. Favorito in Voterga about
3 vulnerabilities in electronic voting machines in the
4 last 12 months?

5 MR. MCGUIRE: Why don't we just do a
6 standing objection to this. If you're asking a
7 question that's got a person's name in it and
8 whether we've talked to them, I think it violates
9 the Court order in 1203, I would object to it on a
10 standing basis.

11 MR. TYSON: On a standing basis, okay.
12 And just so the record is complete, we were also
13 going to ask similar questions about Sidney Powell
14 and her representatives, Lin Wood and his
15 representatives, Mike Lindell, My Pillow, and their
16 representatives, and I understand you have a
17 standing objection, so just have the record clear on
18 that.

19 MR. MCGUIRE: Yeah. And just to clarify
20 my position, given that this is a court order and
21 given that it pertains to First Amendment rights,
22 that's the basis for our objection, and I don't want
23 my objection -- my objection is not offered as any
24 sort of confirmation that any of those
25 communications have occurred. I'm simply objecting

1 to the question based on the Court's order.

2 MR. TYSON: Understood.

3 BY MR. TYSON:

4 Q Let's move to topic number 14. That is
5 the organization's knowledge of any person in the
6 state of Georgia that was not able to vote as a
7 result of the laws, policies, and protocols
8 complained of in this action. And you're the
9 designee for topic 14, Ms. Marks?

10 A I am.

11 Q Did you review any documents specifically
12 to prepare for this part of the deposition?

13 A I some time ago thumbed through some of
14 the declarations and reviewed them, but it was not
15 in the last 24 hours. It was probably in the last
16 week or so, two weeks.

17 Q And so the only documents you reviewed are
18 declarations that were filed in this case; is that
19 correct?

20 A For -- yes.

21 Q And did you speak to anyone associated
22 with CGG specifically to prepare for this topic?

23 A Not other than what we've already talked
24 about, the general conversations that I had with the
25 people we talked about and named previously today.

1 Q Does CGG know of any person in the state
2 of Georgia who was not able to vote as a result of
3 the State's use of the Dominion BMDs?

4 A Dominion BMDs. Because of the State's use
5 of Dominion BMDs. If we are limiting the question
6 to because of the State's use of BMDs, no, I do not
7 know anyone who was unable to vote for that reason.

8 Q Does CGG know of any person in the state
9 of Georgia who was not able to vote because of the
10 lack of audits CGG claims are necessary?

11 A We don't claim that audits are necessary
12 in order to be eligible to vote, but we don't know
13 anybody who was turned away from being able to vote
14 because of inadequate audits.

15 Q Does CGG have knowledge of any voter whose
16 votes -- sorry, I just asked that question.

17 Let's move to -- actually, one more on
18 this one. Does CGG have knowledge of any voter in
19 the state of Georgia who was not able to vote as a
20 result of the use of Dominion scanners?

21 MR. MCGUIRE: I'm going to object to form
22 because it's, I think, vague, ambiguous.

23 A That question doesn't really sound too
24 logical to me. I don't know how it could be that a
25 scanner would keep someone from voting, but no, I

1 don't know of a scanner that has -- I don't know of
2 a person that a scanner's existence caused not to be
3 able to vote.

4 BY MR. TYSON:

5 Q Let me ask it this way: Does CGG have
6 knowledge of any voter whose vote was not counted as
7 a result of the use of Dominion voting equipment?

8 A Yes.

9 Q And who is that voter or voters?

10 A Okay. So I think we -- we start with
11 Donna Price. As I understand it her ballot was not
12 accepted for voting in the Dominion system that -- I
13 don't know exactly the reason why, but I believe
14 it's probably a problem with the electronic -- the
15 electronic records, the ENET system, but that's one
16 voter I know of who wasn't able to vote.

17 You know, we do know of many voters who
18 had to cast provisional ballots. When people cast
19 provisional ballots, then many of the votes which
20 they are eligible to vote, they are not -- they are
21 not able to vote because it's not on the provisional
22 ballot that they are given. And so while they may
23 have engaged in the act of voting, it does not mean
24 that they were able to vote all of the eligible
25 contests that they attempted to vote.

1 Then we certainly don't know of the
2 person's name because of the secret ballot, but we
3 certainly know of ballots that were cast and not
4 counted for all of the votes because of ballot
5 scanner inadequacy and it not picking up all of the
6 marks on the ballot.

7 We certainly know of what appear to be
8 thousands of ballots we do not know who actually
9 completed those ballots because of secret ballot
10 requirements, but we know that many of them exist in
11 the home precincts of several of our members and
12 plaintiffs where the votes were not counted by the
13 BM- -- excuse me, the Dominion Voting System. And
14 so -- in, again, the home precincts of our members
15 and plaintiffs. So, yes, there are wide variety of
16 votes that were not counted.

17 Q And what I'm asking specifically is CGG's
18 knowledge of the identity of voters, and I believe,
19 based on what you said, the only voter you can for
20 sure identify is Ms. Price; is that correct?

21 A We would need to go back and look at
22 people who were required to vote provisional ballots
23 and to see what -- and required to vote provisional
24 ballots because of errors in the pollbook system,
25 for example, to see --

1 Q Is it your custom -- I'm sorry.

2 A -- to see what contest they were eligible
3 to vote and were not able to vote because of casting
4 a provisional ballot because of a problem with the
5 system.

6 Q Is it your testimony that the Poll Pads
7 are Dominion voting equipment?

8 A Yes.

9 Q Are they manufactured by Dominion?

10 A I don't think Dominion manufactures any of
11 their own equipment, but they are certainly
12 encompassed in our definition of the Dominion Voting
13 System, the Poll Pads are.

14 Q Then let me just make sure we're all on
15 the same page here. So does CGG have any knowledge
16 of the identity of any voter whose vote was not
17 counted as a result of the use of Dominion BMDs,
18 Dominion precinct scanners and Dominion central
19 count scanners, and the Dominion electronic
20 management system?

21 A I'm thinking about that for just a moment.
22 In terms of specific identity for particular ballots
23 that we know were not counted, while we can go back
24 to the home precincts, I don't think we know of any
25 particular voter whose ballot we can identify -- we

1 wouldn't -- we wouldn't go so far as to identify if
2 we could -- that was -- that was not counted.

3 In fact, I have heard some people talk
4 about that they believe that their write-in votes
5 for qualified candidates were not counted, and we
6 have actually hesitated to go try to do the research
7 to find out, which we probably -- we might be able
8 to do, but we've hesitated to do it because we felt
9 like that was too much intrusion on ballot secrecy.

10 Q We've been going on for a little while,
11 Ms. Marks. Do you want to take another quick break?

12 A If you wish. How much time have we been
13 on the record?

14 MR. TYSON: We can go off the record.

15 THE VIDEOGRAPHER: The time is 5:30 p.m.
16 We're off the record.

17 (Recess 5:30-5:36 p.m.)

18 THE VIDEOGRAPHER: The time is 5:36 p.m.
19 We're on the record.

20 BY MR. TYSON:

21 Q Thank you, Ms. Marks. I have consulted
22 over the break here to try to streamline this a
23 little bit and make this a little bit easier to skip
24 over a few things that we've pretty much covered, so
25 I'm going to skip ahead to topic number 19.

1 A Okay.

2 Q Topic 19 is all factual and legal
3 contentions of the organization in relation to this
4 case, including but not limited to the contentions
5 of the organization concerning the 2020 elections
6 and the January 2021 runoff in Georgia.

7 And you're the designee for topic 19,
8 correct?

9 A Correct.

10 Q Did you review any documents to get ready
11 for this part of the deposition?

12 A I review documents related to the 2020
13 election, you know, 17 hours a day, seven days a
14 week, so it's hard to say -- it wasn't done
15 specifically for this deposition, but I'm certainly,
16 you know, working with those documents all the time
17 that would prepare me for this deposition. Not so
18 much on the January 2021. I've not done a whole lot
19 of work on that -- the details of that election, but
20 certainly the legal contentions, yes.

21 Q Okay. Thank you.

22 So did you speak to anybody in preparation
23 for this particular topic?

24 A Well, it kind of goes back to my first
25 answer. I speak to dozens of people every day about

1 this -- this topic. So I talked to nobody other
2 than counsel about -- about this topic as described
3 here.

4 Q Okay. Thank you. That's helpful.

5 All right. So is it CGG's contention that
6 it is impossible to know whether Joe Biden got more
7 votes than Donald Trump in the state of Georgia in
8 the 2020 presidential election?

9 MR. MCGUIRE: Can I just object for a
10 moment. I just want to reiterate the objection we
11 have made to the topic to the extent that it calls
12 for legal conclusions by a lay witness, and,
13 secondly, obviously this is a
14 1300-plus-docket-entry-length case, and it's an
15 unreasonable burden to prepare a witness on every
16 single factual contention in that volume of paper.

17 So I just want to make sure that objection
18 is on the record, and her preparation has been
19 constrained by that objection.

20 So with that, go ahead if you can answer.

21 BY MR. TYSON:

22 Q You can answer.

23 A Do you mind asking me that question again
24 because the question was kind of confusing, and I
25 may need more clarification from you?

1 Q Sure. Maybe I can approach it this way,
2 it is CGG's contention that Dominion BMDs are
3 inherently unauditable, correct?

4 A That's correct.

5 Q Is it CGG's contention that because of the
6 unauditable nature of the Dominion BMDs, it is
7 impossible to know accurate vote totals for
8 elections conducted in Georgia?

9 A Unfortunately, I'm going to need you to be
10 a little bit more precise because I don't want to
11 give you a misimpression.

12 When you say "accurate vote totals," we
13 can certainly do the arithmetic on the paper that
14 comes out of the BMDs, and somebody could eventually
15 figure out the correct arithmetic, but I'm not sure
16 that was the question you were asking me.

17 If you were asking me does -- do the
18 election totals reliably reflect what the voters may
19 have entered as their vote, that's a different
20 question.

21 So if you could be more precise with me,
22 that would be helpful.

23 Q Certainly. There's probably an easier way
24 to do this. Let me mark Exhibit Number 33.

25 (Exhibit Number 33 was marked for

1 identification.)

2 BY MR. TYSON:

3 Q Do you see -- this is another Twitter
4 thread from your MarilynRMarks1 account?

5 A Yes. Does this have a date on it?

6 Q This is January 1, 2021.

7 A Okay. All right.

8 Q And what I'm trying to get to is someone
9 responded and said South Carolina and Kentucky are
10 the states that should be audited, and you said:
11 South Carolina is like Georgia. It uses unauditable
12 BMD touchscreen machines. We can never ever know
13 who won in South Carolina or Georgia because of the
14 use of those machines in the polling places.

15 A Correct.

16 Q You see that?

17 A I do.

18 Q Do you agree with that statement?

19 A I do.

20 Q Is CGG's contention that we can never
21 know -- is it -- sorry, let me start over again.

22 Is it CGG's contention that we cannot know
23 who won in Georgia because of the use of Dominion
24 BMDs in the polling places?

25 A Yes. And when we say "who won," what I

1 mean by that, and, of course, you know working with
2 a short Twitter message is hard to get all the
3 nuances in, but when I say "who won," what we mean
4 by that is we do not know who the voters voted for,
5 and that's what we mean by who won. We do not know
6 who the majority or the plurality of the voters
7 voted for in Georgia.

8 Q So it is CGG's contention then that it is
9 impossible to know whether more voters intended to
10 vote for Joe Biden than Donald Trump -- I'm sorry,
11 reverse of that. It is CGG's contention that it's
12 impossible to know whether more voters attempted to
13 vote for Donald Trump in the November 2020 election
14 in the state of Georgia than voted for Joe Biden,
15 correct?

16 A Well, that's true for any of the
17 candidates, including Biden, Trump, Jorgensen, that
18 that is correct that -- and that's what we've been
19 saying since before these BMDs were purchased long
20 before the 2020 election.

21 Q And so it's also the case then --
22 actually, let me ask this: Is it CGG's contention
23 that individuals who question the outcome of the
24 November 2020 election have a reasonable basis for
25 doing so?

1 A Well, I guess you're going to have to be
2 way more specific --

3 Q Okay.

4 A -- on, you know, quote, questioning the
5 outcome. We certainly do not condone the actions of
6 some of the people you mentioned earlier today that
7 you wanted to ask me about whether or not we've been
8 in contact, people like Garland Favorito and Mike
9 Lindell and Sidney Powell and whoever else was on
10 that list, we certainly do not condone those actions
11 at all, and I should say ever so strongly that we --
12 we do not support that kind of questioning of the
13 election.

14 And, you know, while we are very
15 uncomfortable with the way that the election was
16 conducted, and we've spent massive amounts of time
17 going through details of the election records, we
18 have found nothing that is recorded in the records
19 that would suggest that the outcome was wrongly
20 decided based on Georgia's processes.

21 But what we know, of course, is that we
22 will never know what the voters actually intended to
23 enter into those voting machines.

24 We do know how they voted on the
25 hand-marked paper ballots. I say we do know. Now,

1 many of the records are missing, but at least we do
2 have a record, and that could be determined.

3 Q So just -- just so I'm clear, that was a
4 long answer, I want to make sure I understand CGG's
5 contention about this.

6 A Okay. All right.

7 Q If an individual relying on CGG's reasons
8 for questioning elections conducted on BMDs
9 questioned the outcome of an election, you would
10 agree that person had a reasonable basis to do so,
11 right?

12 A I'm not going to tell you that as a
13 blanket proposition, no. Let's say that we had an
14 election that used, I don't know, 15 percent BMDs
15 and most people voted by mail and somebody
16 challenged the election, I would not make a blanket
17 statement that there was a reasonable basis to
18 challenge. It certainly depends on the
19 circumstances. You have to be really -- you have to
20 look at all the facts before we can say there was a
21 reasonable basis for challenging.

22 I mean, you mentioned Garland Favorito.
23 Some of the wild claims that he is making,
24 absolutely there's no reasonable basis in it, and,
25 in fact, there are a bunch of lies coming out.

1 That's -- no, that's not reasonable.

2 Q Does CGG question the outcome of the
3 November 2020 presidential election?

4 A No, I don't think you would have ever seen
5 us question that. I think we have been consistent
6 before, during, and after this election, and before
7 the election we said, just as with all BMD
8 elections, we will never be able to know the
9 outcome.

10 We've said that -- we've said that since
11 before the BMDs were ever even purchased that
12 because of the design we would never be able to
13 assure ourselves of the outcome of any election
14 primarily conducted with BMDs. We would say the
15 same, of course, of the November 2020 election and
16 all before and after elections, and -- oops, wait a
17 minute. I messed up my screen just now. Hold on.
18 Okay. I'm back.

19 But as it -- and as I say, we've been
20 quite consistent. We have huge objections to the
21 massive errors in the audit and the massive
22 tabulation errors, but still, given the work we've
23 done today, and it's not definitive, we have not
24 seen anything that, based on Georgia's method of
25 tabulating votes, that would change the outcome.

1 Not a basis for challenging the outcome of the
2 presidential election.

3 Quite frankly, we have not -- if you were
4 talking about the presidential election. I'm
5 assuming you were talking about the presidential
6 election.

7 Q I was. I'm sorry.

8 A But if you were talking about some of the
9 down-ballot elections, we haven't done enough work
10 to know. We do know that there was significant
11 double and triple counting of votes in many of the
12 down-ballot elections, but we have not gotten far
13 enough in our work to know whether it would have
14 changed the outcome of any of those down-ballot
15 elections.

16 Q And I'm trying to understand the position
17 of CGG because what I hear you say is there's no --
18 we're not questioning the outcome of the November
19 2020 election because there's no evidence to the
20 contrary, but isn't CGG also saying that there
21 cannot be evidence of the contrary because the
22 machines don't preserve evidence of voter intent?

23 A No, I think you're mixing a bunch of
24 subjects here because you're trying to talk about
25 the election in total and whether or not there is a

1 basis for contesting the outcome of the election and
2 then the operation of the BMDs as one sliver of it.

3 So if you don't mind, ask me the question
4 again, and I'll try better to understand your exact
5 question.

6 Q Sure. And to be clear, I'm not asking for
7 election contests. I'm asking --

8 A Okay.

9 Q I'm asking specifically about if an
10 individual relying on CGG's position about the
11 unauditability nature of the Dominion BMDs --

12 A Yes.

13 Q -- has doubts about whether Joe Biden won
14 the state of Georgia in November 2020, are those
15 concerns valid?

16 MR. MCGUIRE: Object to form.

17 A Yes, I think that they are valid not only
18 for Joe Biden, but all the way up and down the
19 ballot for every ballot that was cast from the time
20 we, the State of Georgia, adopted BMDs until -- I
21 think there was an election Tuesday, wasn't there,
22 somewhere in a special election Tuesday or close to
23 it?

24 Anyway, all of those BMD-based elections,
25 yes, there is a reason to question whether the BMD

1 results reflect the will of the voters, absolutely.

2 BY MR. TYSON:

3 Q And so is it CGG's contention that voters
4 in Georgia have a reasonable basis to question each
5 election conducted in Georgia as long as we use
6 Dominion BMDs?

7 A So long as Dominion BMDs are the primary
8 source of votes cast, yes.

9 Q Let me ask you about some additional -- I
10 want to turn to the Coalition's request -- responses
11 to our request for admission about some of the
12 specific contentions. Let me find that real quick.
13 I'm sorry.

14 A Bryan, may I go back and just add
15 something to my last answer about trying to address
16 your question about the presidential contest,
17 presidential --

18 Q Uh-huh.

19 A Okay. What I'm trying to say is that
20 while you're asking about the presidential contest,
21 and we have seen a whole lot of errors in the entire
22 November election from the top of the ballot to tax
23 commissioner at the bottom, the system has so many
24 flaws in its operation right now that it is
25 reasonable to question any election contest on the

1 November ballot and any election that was done from
2 the adoption of the BMDs through now, and we would
3 not make a particular distinction between the
4 presidential election and the tax commissioner
5 election.

6 I hope that's clearer than what I tried to
7 say before, which is very different from what you're
8 hearing Garland Favorito and Sidney Powell and those
9 characters say. Okay?

10 Q And essentially it's CGG's position that
11 you can't make the case that Garland Favorito and
12 Sidney Powell are making because the evidence
13 doesn't exist; is that correct?

14 A Do you mind -- do you mind saying that one
15 more time?

16 Q Uh-huh. Is it CGG's position that you
17 can't make the case that Mr. Favorito and Ms. Powell
18 are making that the election was stolen because the
19 evidence doesn't exist when Georgia elections are
20 conducted primarily on BMDs?

21 A Well, the claims that I hear them making
22 don't seem to have a lot to do with BMDs. They're,
23 like, crazy -- crazy stuff about everything from
24 Chinese televisions to mail ballot counter- --
25 counterfeited mail ballots, and, no, I don't believe

1 any of that evidence -- I won't even call it
2 evidence. I don't think any of those things exist
3 as evidence, but I don't think that if we come back
4 to the theme of what we at CGG are working on, and
5 that is that the BMD system does not provide an
6 evidence-based election result.

7 Q Thank you. All right. Let me go to some
8 of the specific contentions about 2020.

9 (Exhibit Number 34 was marked for
10 identification.)

11 BY MR. TYSON:

12 Q So I've marked as Exhibit 34 the
13 Coalition's objections and responses to Secretary
14 Raffensperger's first request for admission.

15 You see that?

16 A Yes.

17 Q What I want to do is ask about a couple
18 specific ones related to November.

19 So request for admission number 12 says
20 admit that you have no evidence that any component
21 of the election system was actually hacked prior to
22 or during the elections held on November 3rd, and
23 that was denied.

24 Do you see that?

25 A I do see that. And do you mind showing me

1 the date of this document?

2 Q Certainly. January 27th, 2021.

3 A Okay. And that is what we said at the
4 time?

5 Q Uh-huh. Is that a different answer today?

6 A I think it is a different answer today.

7 Q Okay. Why is it a different answer today?

8 A Because here we are, what, 14 months
9 later, and we now have pieces of evidence and
10 documents from the State Defendants as well as other
11 public records that we have obtained since that time
12 that would indicate that, in fact, there are
13 irregularities that could reasonably be attributed
14 to hacking.

15 Q And those irregularities affected the
16 November 2020 election?

17 A Yes.

18 Q So what irregularities are you referring
19 to that changes this answer for the Coalition?

20 A Okay. There are three general categories
21 for this, and so I don't want to forget them. Let
22 me just make myself a note.

23 Okay. The first, and it is really the one
24 that has come to my awareness most recently, and
25 that is that it appears that in, perhaps, mid

1 November that unauthorized access was given to
2 people in Coffee County, Georgia mid November --
3 excuse me, mid November 2020, I didn't mean more
4 recent. In mid November 2020 unauthorized access
5 appears to have been given to people after the
6 original count of the election was performed and the
7 hand audit in Coffee County which appeared to prove
8 out the arithmetic without a problem of one vote
9 difference, and then the third week of November
10 appears that there was unauthorized access, and
11 then, at least according to the public records, it
12 appears that there were problems with the
13 tabulations caused by what's alleged to be a
14 systemic problem in the machine re-count. And so
15 there is a question as to whether that unauthorized
16 access created the tabulation errors.

17 Q Is that -- is that number 1 of 3 or is
18 that all?

19 A That's 1 of 3. I'm so sorry, yes, that's
20 1 of 3.

21 The second would be the nature of the
22 double- and triple-counted votes that happened in
23 many counts, but I know more about them in Fulton
24 because I spent way more time looking at them in
25 Fulton than I have in other -- in others.

1 Now, the Fulton Election Board has said
2 that they did not double scan or triple scan any
3 significant number of ballots. They say it was
4 only, like, a hundred. And I believe that that's
5 consistent generally with what the Secretary of
6 State's witnesses have said, that it was a very
7 limited number of ballots that they are aware of
8 being double scanned. That leaves us with thousands
9 of ballots that we know we have images that were
10 double and triple counted.

11 So if they're not being scanned, there is
12 some other type of electronic systemic error or
13 manipulation that is going on that's causing the
14 double and triple counting of votes.

15 Then the third would be something similar
16 to the second, and that is there are thousands of
17 ballot images that are shown to be counted in the
18 first count -- the first machine count that were not
19 counted in the second machine count and vice versa.

20 And I'm sure I didn't explain that well,
21 but, you know, that you can take the sets of ballot
22 images and compare them and find in the population
23 of ballot images for the first count mismatches in
24 the second count.

25 So we for short call them strays where

1 they don't have a partner in the other account.
2 Sometimes they're in one and not two; sometimes
3 they're in two and not one.

4 Fulton County has essentially said, no, we
5 scanned only one ballot and only once, and if they
6 are correct in that, there is something causing that
7 is causing it to look like there was electronic
8 manipulation to create all of the irregularities in
9 the vote count. Those are my three.

10 Q Okay. So for each of those three would it
11 be correct to say they are irregularities that could
12 be caused by hacking, but CGG doesn't know for sure?

13 A Of course we do not know for sure because
14 there would be, you know, forensic analysis that's
15 not been permitted and not been undertaken that
16 would be required to know exactly how those
17 irregularities came to be.

18 Is it a mechanical problem, is it a -- a
19 software issue that was built into the system, is it
20 a change that -- that a malicious user or an insider
21 did, and then which of those -- which of those fall
22 in the definition of hacking.

23 Q And so is it CGG's contention that those
24 three categories in Mr. Lamb's evidence of the KSU
25 server are evidence of hacking that CGG has related

1 to Georgia election systems?

2 A Those are the primary things that come to
3 mind right now, and, quite frankly, we have so --
4 there have been -- we have so many troublesome
5 documents, in the millions of images and stuff that
6 we have, we could have evidence in our hands that we
7 have not yet figured out created a problem.

8 So I'm saying those are the four things
9 that are primary that I know of today. And, you
10 know, some of them I didn't know of until very
11 recently.

12 Q And so going to request for admission
13 number 12, would those same four categories of
14 evidence be the evidence CGG has about malware being
15 actually inserted into any component of the election
16 system prior to or during elections held on November
17 3rd, 2020?

18 A Let me think about that for just a minute,
19 see if I can -- see if I'm leaving anything out.

20 Those four topics are the only things I
21 can think of right now that would be -- would be
22 signs of irregularities that could be caused by
23 malware.

24 I am not declaring that all of those
25 things were malware, I can't do that, but it is a

1 reasonable -- it is a reasonable possibility,
2 particularly given Fulton's position that it was
3 not, for example, double scanning, and they did
4 count all the ballots that they had.

5 Q Let me go to request for admission 14.
6 There Coalition was asked to admit that you have no
7 evidence that any votes in the presidential election
8 held on November 3rd, 2020, in Georgia were actually
9 switched from President Trump to Joseph R. Biden,
10 Jr. as a result of an anomaly in the software used
11 in the election system.

12 What evidence does CGG have that a
13 software anomaly switched votes from President Trump
14 to President Biden?

15 A I'm rereading the question and trying to
16 remember here. Just a second.

17 I'm having a hard time remembering what we
18 might have been -- what examples we might have been
19 thinking about when we said denied. I'm sure the
20 minute this deposition's over I'm going to remember
21 that.

22 I'm wondering if we might have been
23 looking at the flawed audit tallies and some of the
24 flawed hand -- hand audit counts that were in the --
25 that were done, as you recall, in the second week of

1 November hand tallies where, in fact, what was
2 showing up in those audits did appear to be
3 different and in some cases flipped from what was
4 recorded in the machines.

5 Q And is that the only item you're aware of
6 that relates to a software anomaly?

7 A It's what I'm remembering right now. I'm
8 afraid I'm forgetting something on this, but it's
9 what I'm remembering right now we must have been
10 talking about.

11 Q Go to request number 29. Coalition was
12 asked to admit that you have no evidence there was
13 any mismatch between the QR codes on the paper
14 ballots cast in the presidential election held on/in
15 Georgia on November 3rd, 2020, and the human
16 readable portion of the paper ballots, and there was
17 a denial of that.

18 What evidence does Coalition have of a
19 mismatch between QR codes and the human readable
20 portion of the ballot?

21 A Trying to remember what may have been in
22 our minds when we answered this question. Mismatch
23 between the QR code. I'm sorry, I just don't
24 remember right now. I don't have any evidence off
25 top of my head that relates to mismatch between the

1 QR code and the human readable text, but I'll be
2 happy to supplement my answer when I remember it.

3 Q You need to take a break now so you
4 can investigate?

5 A I'm probably not going to remember in the
6 next five minutes, but --

7 Q Well, this is a 30(b)(6) deposition, so if
8 you want to take a pause to investigate, we can do
9 that.

10 A It may just -- it may take a while. Is
11 there an alternative for me to get back to you later
12 if I can remember what this is?

13 Q Who would you call to verify this
14 information?

15 A I would probably call Bruce Brown and get
16 him to remind me of his notes.

17 Q Okay. We can always suspend at the end
18 and come back if we need to, so that could be an
19 alternative.

20 A Okay.

21 Q Let me go next to topic number 20, which
22 is the organization's knowledge of any ballot
23 altered, not counted or otherwise impaired by use of
24 the Dominion BMD system in Georgia, and you are the
25 designee for this topic as well, correct?

1 A I am, yes.

2 Q Did you review any documents to prepare
3 for topic 20?

4 A Certainly, I deal with November -- mainly
5 November 2020 ballot issues every single day, but
6 not necessarily specifically for the purpose of
7 preparing for this. I feel prepared for this based
8 on the work that I do every day.

9 Q And so did you speak with anybody
10 specifically for this topic as well?

11 A I speak to people on this topic all the
12 time, but not for the specific purpose of preparing
13 for this deposition.

14 Q Does CGG have any evidence, any ballots
15 generated by a BMD in the November 2020 election
16 that were not counted by the Dominion system?

17 A Yes.

18 Q And what evidence is that?

19 A That is the number three thing that we
20 were talking about a few minutes ago where I called
21 them strays at the time where we have ballots that
22 are counted in machine -- we call it machine count
23 1, and the re-count we call machine count 2, but --
24 so we have ballots in both of those election counts
25 that were not counted in the other official count.

1 So, yes, we do have -- we do have evidence of that.

2 Q Does CGG have any evidence of any ballot
3 generated by BMD that was altered by the Dominion
4 system?

5 A I can't quite envision how I would ever
6 know whether the thing was altered by the Dominion
7 system because all we have are -- are the ballot
8 images that were produced by the Dominion system.
9 We would have no way of knowing what the guts of the
10 BMD did to the choices on that ballot.

11 And other than not counting them
12 correctly, no, I don't have -- all I can envision is
13 something you're talking about that would suggest
14 that the ballot image has been altered by the system
15 itself. Not that I'm aware of, but, again, we do
16 not know the cause of why some of these images
17 appear two and three times and are counted multiple
18 times. And does that come from ballot alteration, I
19 don't know.

20 Q And you don't have any evidence one way or
21 the other right now, right?

22 A We know they weren't counted, or in other
23 cases counted two and three times, but whether or
24 not it is because a BMD ballot was altered -- using
25 the altered, I don't know that. It would seem to be

1 some kind of systemic problem.

2 Q Now, CGG responded to a December 30th,
3 2020, Senate Judiciary Subcommittee hearing posting
4 a transcript with some comments online. Do you
5 recall that?

6 A I don't, but I'm sure if you say so it
7 happened, but I don't recall it right now.

8 (Exhibit Number 35 was marked for
9 identification.)

10 BY MR. TYSON:

11 Q So I marked --

12 A I do recall it.

13 Q Exhibit 35, this document is a rough
14 transcript with comments by Marilyn Marks, Coalition
15 for Good Governance in blue; you see that?

16 A Yes.

17 Q And you prepared this document?

18 A I prepared at least my comments; otherwise
19 it was probably an automated transcript that we
20 would have produced -- excuse me, that we would have
21 created. It was probably edited by an intern, and I
22 probably put in whatever is in blue font which we
23 haven't seen yet.

24 Q Got it. I just want to ask a few
25 questions about this. Mr. Hutton-Pulitzer makes the

1 allegation that he would be able to tell if the
2 ballots were folded, if they were counterfeit,
3 whether they were filled out by human hands, whether
4 they were printed by a machine, whether they were
5 batch fed continually over and over, we can detect
6 every bit of that. Do you see that language?

7 A I do.

8 Q Then CGG in blue responds: There is no
9 credible allegation of ballots being repeatedly
10 scanned to add more votes.

11 Do you see that?

12 A I do.

13 Q And do you no longer agree with that
14 statement today?

15 A Well, of course, this was written before
16 we were able to obtain all of the ballot images that
17 show double -- because we did not get those until
18 July, and -- excuse me, it might have been late --
19 sorry, I think it was late June of 2021, and we were
20 not aware of the double and triple counting until we
21 did analysis work on that. But, now, what he is
22 saying, he -- what I was saying here is repeatedly
23 scanned to add more votes.

24 I don't know that we have seen anything
25 that says that the double and triple counting is

1 coming from repeated scanning, but I'm guessing --
2 whether they were batch fed continually over and
3 over.

4 You know how they have these ridiculous
5 allegations of State Farm Arena-located employees
6 double and triple and quadruple scanning ballots to
7 add more votes. We know that is not correct. We
8 know the very limited number of ballots that were
9 double scanned during that time, and it is a small
10 number of ballots, but we did not know about that at
11 the time that I wrote this. We did not know of any,
12 but we do know now it was a limited number.

13 Q So let me go --

14 A So that comment is out of date. It's not
15 current.

16 Q Okay. So this statement was made before
17 CGG had made an investigation into whether there was
18 ballots being counted more than once?

19 A Yes. And, again, I would make a big
20 distinction between what he's talking about and the
21 scanning that took place at State Farm Arena which
22 we think that the errors were quite limited to
23 double and triple counting of much greater numbers.

24 Q Go to one other statement on here that I
25 want to ask you about on page 14. So there is a

1 kind of extended discussion about scanners. I just
2 want to ask you about comments in blue.

3 CGG says: We have tested the scanners on
4 many barcoded ballot-on-demand ballots and have not
5 seen any systemic counting errors related to the
6 barcode or alignment. We've heard of none reported
7 by others. Is Pulitzer saying he had some evidence
8 of a vote count problem; do you see that?

9 A I do.

10 Q And does CGG still agree with that
11 statement today?

12 A So I believe that the focus -- I mean, I
13 am barely remembering this, but I believe the focus
14 of that was he didn't understand why there were
15 barcodes on some of the paper hand-counted
16 ballots -- it's not hand counted, I'm sorry,
17 hand-marked ballots, and, of course, they were from
18 the ballot-on-demand printer, which were not coming
19 from the commercial printer, and he was making some
20 big deal about the barcoded ballots being different.
21 I think he even said some crazy thing like the
22 Republican ballots only had barcodes. I have
23 forgotten what it was, but his focus was the
24 barcode.

25 My point here was saying we have not seen

1 any problem with the ballot-on-demand ballots being
2 any different than any other ballot.

3 That was -- that was the focus of that.
4 And to this day I don't believe we have found any
5 issue related to the printing of the barcode at the
6 top right corner of the ballot.

7 Q Thank you.

8 With that, let me go to topic number 22,
9 which is the organization's review of expert reports
10 produced in this case, including, but not limited
11 to, the expert reports of Dr. J. Alex Halderman.

12 Do you see this topic?

13 A I do.

14 Q And you are the designee for this topic,
15 correct?

16 A Yes.

17 Q Have you personally read the sealed report
18 of Dr. Halderman?

19 A No, I have not, of course.

20 Q Has any representative of CGG read the
21 sealed report of Dr. Halderman?

22 A When you say representative, the only
23 people that I'm aware of that have had access to
24 that report associated with CGG are our attorneys
25 and our experts in the case. Certainly not me,

1 certainly not our directors, certainly none of our
2 members that I'm aware of.

3 MR. TYSON: Let's go off the record for
4 just a minute.

5 THE VIDEOGRAPHER: The time is 6:22 p.m.
6 We're off the record.

7 (Recess 6:22-6:32 p.m.)

8 THE VIDEOGRAPHER: The time is 6:32 p.m.
9 We're on the record.

10 MR. TYSON: Good afternoon again,
11 everybody. I wanted to briefly clarify one point
12 before we get started again.

13 BY MR. TYSON:

14 Q Ms. Marks, we were looking at Exhibit 34,
15 the request for admission, and I believe you
16 indicated that the answer to number 11 would have
17 changed, but the testimony as we talked through it,
18 in fact, you were discussing that the Coalition --
19 you discussed the Coalition's evidence of an actual
20 hacking which would make the answer of denied the
21 correct answer.

22 So is it correct that the answer to number
23 11 request for admission has not changed based on
24 your testimony?

25 A That's correct, we were saying there is

1 evidence.

2 Q Thank you.

3 MR. TYSON: Mr. McGuire?

4 MR. MCGUIRE: Yes. I also wanted to put
5 on the record that Mr. Tyson and I spoke off the
6 record during the break about the questions he had
7 attempted to ask earlier regarding Ms. Marks's
8 conversations, whether she had conversations or
9 anyone from Coalition had conversations with Sidney
10 Powell, Lin Wood, Mike Lindell, Garland Favorito.
11 We invoked document 1203 which has been entered by
12 the Judge in this case as prohibiting those
13 questions, but in the off-the-record time I offered
14 that Ms. Marks was willing to answer those questions
15 provided it didn't waive the protection of that
16 order 1203.

17 And Mr. Tyson and I -- Mr. Tyson said that
18 his team agreed that those questions were not
19 appropriate under the order, and, therefore, he
20 wouldn't ask them anyway. And so we wanted to put
21 this on the record so that it's clear that we were
22 willing to answer those questions in the negative.
23 Thank you.

24 MR. TYSON: Yes, and that's correct.

25 Thank you, Mr. McGuire.

1 BY MR. TYSON:

2 Q Ms. Marks, we're on the home stretch here.
3 Let me refer you back to our exhibit. We're going
4 to be on our last topic, number 24, which is the
5 process by which the organization searched for and
6 identified documents responsive to discovery
7 requests in this case, and you're the designee for
8 topic 24, correct?

9 A That is correct.

10 Q And did you review documents to prepare
11 for this topic of the deposition?

12 A I didn't review a document about the
13 process. I don't think -- I don't think we created
14 a document for how I searched for records.

15 Q Did you speak with anybody associated with
16 CGG to prepare for this topic?

17 A Certainly with counsel, and in general in
18 the past talking to the board members about whether
19 they might have responsive documents that I did not
20 have, and generally the answer of that is no.

21 Q So I just want to -- I've marked as
22 Exhibit 36 the Coalition's objections and responses
23 to our second request for production of documents.

24 (Exhibit Number 36 was marked for
25 identification.)

1 BY MR. TYSON:

2 Q Do you see that?

3 A I do.

4 Q And so I wanted to go to -- hold on. I
5 think I'm in the wrong document here. Hang on just
6 a second.

7 I'm so sorry. Let me go to Exhibit 37,
8 which is the first request for production of
9 documents.

10 Do you see that?

11 A I do.

12 (Exhibit Number 37 was marked for
13 identification.)

14 BY MR. TYSON:

15 Q So let me just go to a couple of these in
16 particular. Request number 2 requested all
17 documents and communications that reflect any
18 diversion of personnel or time spent by or on behalf
19 of the Coalition as a result of your challenges to
20 the election system and/or the litigation from
21 January 1, 2017, to the present.

22 You see that?

23 A Yes.

24 Q And you indicate that Coalition will
25 produce documents sufficient to show a diversion of

1 resources for purposes of establishing standing in
2 this litigation?

3 A Yes.

4 Q How did you go about searching for those
5 documents in response to number 2?

6 A Well, of course, in the fee claim that we
7 talked about earlier, I think we show a significant
8 amount of documentation of hours spent -- paid,
9 hours spent by our interns, and time that I spent,
10 and certainly that type of -- that type of activity
11 has continued since at similar levels.

12 Q As of today, I know you said documents are
13 going to be produced -- more documents may exist
14 later on, but as of today has CGG produced all
15 responsive documents to this request?

16 A I think we objected to some of this, but
17 have I sent you-all time sheets from the interns,
18 no.

19 Q But it's CGG's position that it has
20 produced as of today documents sufficient to show a
21 diversion of resources for purposes of establishing
22 standing in this litigation?

23 A Certainly, yes.

24 Q Let me go next to -- down here to request
25 number 31, and so there's a serious of documents

1 here, 31 through 42, where each response is
2 responsive documents will be produced. I don't know
3 if you want to pull it up and review it on yours or
4 if you want to go through each one. Do you have a
5 preference?

6 A I'm sorry, are you asking do I want to
7 pull up what, this same -- the same exhibit?

8 Q Yes. Let me just explain. What I want to
9 do is for each of those requests where responsive
10 documents will be produced is the response, I just
11 want to confirm that CGG has produced all responsive
12 documents as of today.

13 So we can either do them one at a time, or
14 if you want to read them as a group and then
15 respond, that's -- I'm just trying to think of the
16 most efficient way to --

17 A Why don't we do them as a group and
18 respond. How's that?

19 Q Okay. That'll work great.

20 A Okay. Can you scroll down. Okay. Okay.
21 Okay. All right. Okay. Okay.

22 Q Have you now reviewed request numbers 31
23 through 42?

24 A Yes.

25 Q And has CGG produced all documents

1 responsive to these requests as of today's date?

2 I'm not asking for documents that may come into

3 existence in the future.

4 A Right. You know, all documents that we
5 reasonably found in our searches, you know. Can I
6 tell you that we haven't missed some documents by
7 mistake, no, but, you know, all things -- all of the
8 ones that came up in reasonable searches, yes, we
9 have produced.

10 Q Did the -- did CGG utilize keyword
11 searches to identify responsive documents?

12 A Yes, we did, but not in a sophisticated
13 manner like a big agency would have. I did it
14 through just normal using -- using Microsoft and
15 Adobe types of searches on e-mails, on PDFs, that
16 sort of thing. I don't have any fancy litigation
17 platform searches of -- of the organization's
18 documents.

19 Q Does CGG maintain a central e-mail server?

20 A No, we do not.

21 Q Did you conduct a search of all the e-mail
22 addresses for CGG that it maintains?

23 A We don't actually maintain any e-mail
24 address for anybody except for me.

25 Q Did you search the personal in-boxes of

1 any of your interns?

2 A Sorry, I guess that's wrong. We do have
3 their -- we have Gmail addresses that are assigned
4 to them, and they are only used for CGG business,
5 and so any documents that would have been in those
6 records we would have gotten in the searches.

7 Q So you searched the e-mail boxes?

8 A Yes, I think I did have them do that. I
9 didn't personally do that.

10 Q And does CGG maintain any sort of central
11 file server?

12 A No.

13 Q And so how did you conduct a search for
14 documents that were not e-mails?

15 A So I keep lots of files by category in a
16 big Dropbox of -- account, and so I did searches on
17 all of my folders that have anything to do with
18 Georgia or election systems and did Dropbox searches
19 using -- using that tool.

20 Q Okay. And did you give your interns
21 specific written instructions of how to search their
22 own Gmail boxes?

23 A No, that probably goes back some time ago,
24 and I probably just talked to them by phone about
25 it, but for the most part the vast majority -- vast

1 majority of their e-mails are with me or -- they're
2 with me, and then otherwise they tend to be public
3 records requests and responses which they did look
4 for and forward me. Generally I get a copy of them
5 anyway. But that would account for virtually all of
6 the traffic going to the interns' accounts.

7 Q So let's go next to same process for
8 request number 44 through 56. I'll scroll through
9 those if you can read them.

10 A Okay. Okay. Oops. Okay. All right.
11 Okay. Okay. Okay. Okay. Okay. Okay.

12 Q So you've now had a chance to review
13 request numbers 44 through 56?

14 A Uh-huh.

15 Q Is that a yes?

16 A Yes. I'm so sorry. Yes.

17 Q And has CGG produced all documents
18 responsive to these requests as of today?

19 A Yes, to the best of my knowledge.

20 Q And then I have three more. Number 58.

21 A Okay.

22 Q And number 61.

23 A Okay.

24 Q And number 62.

25 A Okay.

1 Q So for -- you've now read requests 58, 61,
2 and 62; is that correct?

3 A Yes.

4 Q The same question on those, have all
5 responsive documents been produced as of today?

6 A To the best of my knowledge, yes.

7 Q And I realize, Ms. Marks, I apologize, I
8 know we talked about interns and your e-mail box.
9 Did you collect any documents from the board members
10 of CGG?

11 A If I recall this has been some time ago,
12 and I asked them, but I cannot remember whether any
13 of them had anything that I didn't have, so I don't
14 remember whether there was separate production from
15 them. They were asked, but I don't -- but it
16 might -- if it was a duplicate document, if it was
17 something like to me we probably didn't produce both
18 copies.

19 Q Did you provide any instructions to the
20 board members about how to conduct a search?

21 A I don't recall right now. It's been a
22 little while.

23 Q Last thing our second requests for
24 production, Exhibit 36, I just want to go to number
25 8, all documents or communications concerning

1 membership with the Coalition for Good Governance,
2 including but not limited to registration processes,
3 dues, responsibilities, obligations, or benefits of
4 membership.

5 See that request?

6 A Yes.

7 Q Has CGG provided all responsive documents
8 related to request number 8?

9 A Yes, we have. That would be directly for
10 those purposes, yes, and we've discussed a lot of
11 that today.

12 Q Yes. Okay. Ms. Marks, I know it's been a
13 long day. I appreciate your endurance through this.
14 With that, I know you had one issue you wanted to do
15 some further digging on related to QR codes, so at
16 this point I think we can just suspend whatever time
17 we have left and go from there.

18 THE VIDEOGRAPHER: This suspends the
19 deposition. The time is 6:50 p.m., and we are now
20 off the video record.

21 (Off video.)

22 MR. MCGUIRE: I'm not sure if I said this
23 on the record or not, but we would like to read and
24 sign, so thank you.

25 (Off-the-record discussion.)

1 MR. TYSON: So, Ms. Marks, one additional
2 housekeeping issue, I know we need to get a copy of
3 the notes that you referenced there, so if we could,
4 you just take a picture and e-mail it to
5 Ms. Bosworth, the court reporter, and we'll mark
6 that as Exhibit Number 38 to your deposition.

7 A All right.

8 (Exhibit Number 38 was marked for
9 identification.)

10 MR. MCGUIRE: While we're on the record, I
11 would just add that we wanted to read.

12 (Deposition adjourned at 6:52 p.m.)

13 (Signature reserved.)
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1 The following reporter and firm disclosures
2 were presented by me at this proceeding for review
3 by counsel:

4 REPORTER DISCLOSURES

5 The following representations and
6 disclosures are made in compliance with Georgia Law,
7 more specifically:

8 Article 10 (B) of the Rules and
9 Regulations of the Board of Court Reporting
10 (disclosure forms)

11 OCGA Section 9-11-28 (c) (disqualification
12 of reporter for financial interest)

13 OCGA Sections 15-14-37 (a) and (b)
14 (prohibitions against contracts except on a
15 case-by-case basis).

16 - I am a certified court reporter in the State of
17 Georgia.

18 - I am a subcontractor for Veritext.

19 - I have been assigned to make a complete and
20 accurate record of these proceedings.

21 - I have no relationship of interest in the matter
22 on which I am about to report which would disqualify
23 me from making a verbatim record or maintaining my
24 obligation of impartiality in compliance with the
25 Code of Professional Ethics.

- I have no direct contract with any party in this
action, and my compensation is determined solely by
the terms of my subcontractor agreement.

FIRM DISCLOSURES

- Veritext was contacted to provide reporting
services by the noticing or taking attorney in this
matter.

- There is no agreement in place that is prohibited
by OCGA 15-14-37 (a) and (b). Any case-specific
discounts are automatically applied to all parties,
at such time as any party receives a discount.

- Transcripts: The transcript of this proceeding as
produced will be a true, correct, and complete
record of the colloquies, questions, and answers as
submitted by the certified court reporter.

- Exhibits: No changes will be made to the exhibits
as submitted by the reporter, attorneys, or
witnesses.

1 - Password-Protected Access: Transcripts and
exhibits relating to this proceeding will be
2 uploaded to a password-protected repository, to
which all ordering parties will have access.

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1 CERTIFICATE

2 STATE OF GEORGIA:

3 COUNTY OF FULTON:

4 I hereby certify that the foregoing
5 transcript was taken down, as stated in the caption,
6 and the colloquies, questions and answers were
7 reduced to typewriting under my direction; that the
8 transcript is a true and correct record of the
9 evidence given upon said proceeding.

10 I further certify that I am not a relative
11 or employee or attorney of any party, nor am I
12 financially interested in the outcome of this
13 action.

14 I have no relationship of interest in this
15 matter which would disqualify me from maintaining my
16 obligation of impartiality in compliance with the
17 Code of Professional Ethics.

18 I have no direct contract with any party
19 in this action and my compensation is based solely
20 on the terms of my subcontractor agreement.

21 Nothing in the arrangements made for this
22 proceeding impacts my absolute commitment to serve
23 all parties as an impartial officer of the court.

24 This the 4th day of April, 2022.

25 

ROBYN BOSWORTH, RPR, CRR, CRC, CCR-B-2138

Curling, Donna v. Raffensperger, Brad

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1 To: Robert McGuire, Esq.

2 Re: Signature of Deponent Marilyn Marks

3 Date Errata due back at our offices: 30 Days

4
5 Greetings:

6 This deposition has been requested for read and sign
7 by the deponent. It is the deponent's
8 responsibility to review the transcript, noting any
9 changes or corrections on the attached PDF Errata.
10 The deponent may fill out the Errata electronically
11 or print and fill out manually.

12 Once the Errata is signed by the deponent and
13 notarized, please mail it to the offices of Veritext
14 (below).

15 When the signed Errata is returned to us, we will
16 seal and forward to the taking attorney to file with
17 the original transcript. We will also send copies
18 of the Errata to all ordering parties.
19 If the signed Errata is not returned within the time
20 above, the original transcript may be filed with the
21 court without the signature of the deponent.

22 Please send completed Errata to:
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24 20 Mansell Court, Suite 300
25 Roswell, GA 30076
(770) 343-9696

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2 I, the undersigned, do hereby certify that I have
3 read the transcript of my testimony, and that

4 ___ There are no changes noted.

5 ___ The following changes are noted:

6
7 Pursuant to Rule 30(7)(e) of the Federal Rules of
8 Civil Procedure and/or OCGA 9-11-30(e), any changes
9 in form or substance which you desire to make to
10 your testimony shall be entered upon the deposition
11 with a statement of the reasons given for making
12 them. To assist you in making any such corrections,
13 please use the form below. If additional pages are
14 necessary, please furnish same and attach.

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21 Sworn to and subscribed before me this _____ day of

22 _____, 20__.

23 _____

24 _____

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27 My Commission Expires: _____

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, *et al.*,

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendant.

CIVIL ACTION

FILE NO. 1:17-cv-2989-AT

**SECOND AMENDED NOTICE OF 30(b)(6) DEPOSITION OF
COALITION FOR GOOD GOVERNANCE**

PLEASE TAKE NOTICE that, pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, counsel for the State Defendants will take the oral examination under oath of the designated representatives of the Coalition for Good Governance, Inc. (“Coalition” or “Organization”) on Thursday, March 17, 2022, beginning at 11:00 a.m. and continuing thereafter until completed via Zoom videoconferencing through Veritext Legal Solutions. Details regarding the videoconferencing will be emailed to those participating once all arrangements are finalized.

The deposition shall be taken before a Notary Public or some other officer authorized by law to administer oaths for use at trial. The deposition will be taken by oral examination and recorded by stenographic means, the

deposition may also be recorded for the purpose of preserving a sound and visual record thereof. The deposition will be taken for the purposes of cross-examination, discovery, and for all other purposes permitted under the Federal Rules of Civil Procedure or any other applicable law.

Please note, under Rule 30(b)(6) of the Federal Rules of Civil Procedure, the organization must designate one or more officers, directors, managing agents, or other appropriate persons who consent to testify on behalf of the organization. The Person(s) must be ready to testify about the information known or reasonably available to the Organization regarding the topics listed in Exhibit A, attached hereto.

Respectfully submitted this 14th day of March, 2022.

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Exhibit A

1. The Organization's allocation of resources and budgetary decisions from January 1, 2017 through the present that reflect the diversion of funds and resources the Organization alleges it has undertaken in its Third Amended Complaint and First Supplemental Complaint.
2. The changes made to the Organization's budgets – as well as any contemporaneous rationale for such changes – during its budget years from January 1, 2017 through the present related to the laws, policies, or protocols challenged in this action.
3. The Organization's exempt purpose and activities it undertakes in accordance with its exempt purpose.
4. The Organization's organizational structure, including individuals who have the authority to make funding and resource-allocation decisions for the Organization from January 1, 2017 through the present.
5. The specific ways in which the actions of the Defendants that form the basis of the complaints in this action caused the Organization to divert resources away from its organizational activities to activities in which the Organization had not previously engaged, and the identification of the overall amount of the diverted resources.
 - a. The specific activities and projects the Organization was unable to engage in due to the diversion of resources to activities necessitated by such actions.
6. The specific laws, policies, and protocols the Organization alleges are unconstitutional or violate federal law as asserted in this action and the specific steps the Organization took to address its understanding of those laws, policies, and protocols.
 - a. The specific steps the Organization has taken to address those laws, policies, and protocols it advocates are unconstitutional or violate federal law in its involvement in this action and the process by which those steps were determined.

- b. The specific steps the Organization took to address those laws, policies, and protocols it advocates are unconstitutional or violate federal law other than its involvement in this action and the process by which those steps were determined.
- 7. The activities or expenditures the Organization plans to undertake in the future related to the laws, policies, and protocols challenged in this action if it is unsuccessful in achieving relief through this action.
- 8. The total expenditures of the Organization on activities related to this action since the Organization began participating in this litigation.
- 9. The nature of membership of the Organization, including how individuals become members, any obligations of members, and any benefits offered by the Organization to its members.
- 10. Whether and how the Organization determined if any of its individual members are impacted by the laws, policies, and protocols challenged in this action.
- 11. The Organization's communications with the Office of Secretary of State and/or the State Election Board regarding the laws, policies, and protocols it challenges in this action, from January 1, 2017 to the present, including any other litigation filed against the Secretary or his office during that time that included a challenge to any of the laws, policies, and protocols challenged in this action.
- 12. The Organization's communications with any county government regarding the laws, policies, and protocols it challenges in this action, from January 1, 2017 to the present, including any other litigation filed against a county entity during that time regarding the laws, policies, and protocols challenged in this action.
- 13. Communications between the Organization and any of the co-Plaintiffs, its individual member plaintiffs, its other members, and other advocates and advocacy organizations, concerning this

litigation or concerns regarding vulnerabilities in electronic voting systems.

14. The Organization's knowledge of any person in the State of Georgia that was not able to vote as a result of the laws, policies, and protocols complained of in this action.
15. The specific relief the Organization seeks that will cause it to cease diverting resources to address the laws, policies, or protocols challenged in this action.
16. The documents produced in this litigation by the Coalition Plaintiffs and the Curling Plaintiffs and the information contained in the documents.
17. The Organization's activities in other States concerning the utilization of electronic voting systems and/or Risk-Limiting Audits.
18. The Organization's allegations in its various motions for injunctive relief sought in this case.
19. All factual and legal contentions of the Organization in relation to this case, including but not limited to contentions of the Organization concerning the 2020 elections and January 2021 Runoff in Georgia.
20. The Organization's knowledge of any ballot altered, not counted, or otherwise impaired by use of the Dominion BMD System in Georgia.
21. The Organization's knowledge of any security breach or hack of Georgia's election system, including any such breach or hack that resulted in the miscounting or tabulation of any votes.
22. The Organization's review of expert reports produced in this case, including but not limited to the expert reports of Dr. J. Alex Halderman.

23. To the extent not otherwise provided herein, all factual matters which have bearing on the Organization's standing in this suit under Article III, Sec. 2, cl. 1.
24. The process by which the Organization searched for and identified documents responsive to discovery requests served in this case.

CERTIFICATE OF SERVICE

I hereby certify that, on March 14, 2022, I caused to be served the foregoing **SECOND AMENDED NOTICE OF 30(b)(6) DEPOSITION OF COALITION FOR GOOD GOVERNANCE** via email to the following:

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This 14th day of March, 2022

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Bryan P. Tyson

Georgia Bar No. 515411

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiff**

s, v.

**BRAD RAFFENSPERGER, ET AL.,
Defendants.**

**Civil Action No. 1:17-CV-2989-
AT**

**COALITION FOR GOOD GOVERNANCE’S OBJECTIONS TO
DEFENDANTS’ RULE 30(b)(6) NOTICE OF DEPOSITION**

Coalition for Good Governance hereby objects to Defendants’ intended areas of inquiry as set forth in Exhibit “A” to the Notice of Deposition in the upcoming Rule 30(b)(6) deposition as follows:

1. The Organization’s allocation of resources and budgetary decisions from January 1, 2017 through the present that reflect the diversion of funds and resources the Organization alleges it has undertaken in its Third Amended Complaint and First Supplemental Complaint.

No objection, although the designee will not be prepared to testify as to specific spending amounts.

2. The changes made to the Organization’s budgets – as well as any contemporaneous rationale for such changes – during its budget years from January 1, 2017 through the present related to the laws, policies, or protocols challenged in this action.

CGG objects to this topic in that it mischaracterizes CGG’s position. CGG does not contend that it has made changes to its budgets “laws, policies, or protocols challenged in this action.” Instead, CGG contends that it has been forced to make changes and

**Exhibit
CGG 0002**

adjustments to its budgets to accommodate the litigation costs associated with the challenges to said “laws, policies, or protocols challenged in this action.”

3. The Organization’s exempt purpose and activities it undertakes in accordance with its exempt purpose.

No objection.

4. The Organization’s organizational structure, including individuals who have the authority to make funding and resource-allocation decisions for the Organization from January 1, 2017 through the present.

No objection.

5. The specific ways in which the actions of the Defendants that form the basis of the complaints in this action caused the Organization to divert resources away from its organizational activities to activities in which the Organization had not previously engaged, and the identification of the overall amount of the diverted resources.

No objection.

- a. The specific activities and projects the Organization was unable to engage in due to the diversion of resources to activities necessitated by such actions.

No objection.

6. The specific laws, policies, and protocols the Organization alleges are unconstitutional or violate federal law as asserted in this action and the specific steps the Organization took to address its understanding of those laws, policies, and protocols.

CGG objects to this topic in that it requires its designee to address matters of law rather than matter of fact. CCC further objects that the portion of the topic dealing with “specific steps” is vague, ambiguous, and requires CGG to guess as to its meaning, making it

impossible for CGG to prepare to proper respond to questions on this subject.

- a. The specific steps the Organization has taken to address those laws, policies, and protocols it advocates are unconstitutional or violate federal law in its involvement in this action and the process by which those steps were determined.

CGG objects that this topic is vague, ambiguous, and generally indecipherable, making it impossible for CGG to prepare to proper respond to questions on this subject.

- b. The specific steps the Organization took to address those laws, policies, and protocols it advocates are unconstitutional or violate federal law other than its involvement in this action and the process by which those steps were determined.

No objection.

7. The activities or expenditures the Organization plans to undertake in the future related to the laws, policies, and protocols challenged in this action if it is unsuccessful in achieving relief through this action.

CGG has no plans related to the issues in this case other than to prevail in this matter. Hence, planning for failure would be useless and redundant.

8. The total expenditures of the Organization on activities related to this action since the Organization began participating in this litigation.

No objection to the extent that this topic seeks information regarding only those expenditures CGG seeks to recover in this litigation. To the extent this topic seeks information regarding expenditures CGG does not seek to recover in this litigation, CGG objects to the same as irrelevant to the subject matter of this litigation and not calculated to lead to the discovery of admissible evidence.

9. The nature of membership of the Organization, including how individuals become members, any obligations of members, and any benefits offered by the Organization to its members.

No objection.

10. Whether and how the Organization determined if any of its individual members are impacted by the laws, policies, and protocols challenged in this action.

No objection.

11. The Organization's communications with the Office of Secretary of State and/or the State Election Board regarding the laws, policies, and protocols it challenges in this action, from January 1, 2017 to the present, including any other litigation filed against the Secretary or his office during that time that included a challenge to any of the laws, policies, and protocols challenged in this action.

No objection.

12. The Organization's communications with any county government regarding the laws, policies, and protocols it challenges in this action, from January 1, 2017 to the present, including any other litigation filed against a county entity during that time regarding the laws, policies, and protocols challenged in this action.

CGG does not maintain a record of all such communications but will employ its best efforts to provide as much information as possible on the subject.

13. Communications between the Organization and any of the co-Plaintiffs, its individual member plaintiffs, its other members, and other advocates and advocacy organizations, concerning this litigation or concerns regarding vulnerabilities in electronic voting systems.

CGG objects to this topic to the extent that it would implicate any communications between CGG and/or its members and its counsel as violating attorney-client privilege or common-interest privilege.

14. The Organization's knowledge of any person in the State of Georgia that was not able to vote as a result of the laws, policies, and protocols complained of in this action.

No objection.

15. The specific relief the Organization seeks that will cause it to cease diverting resources to address the laws, policies, or protocols challenged in this action.

No objection.

16. The documents produced in this litigation by the Coalition Plaintiffs and the Curling Plaintiffs and the information contained in the documents.

CGG objects to this topic in that it does not have encyclopedic knowledge of the documents produced to Defendants by the Curling Plaintiffs. Additionally, on its face, this topic seeks to require the CGG designee to have encyclopedic knowledge of the content of the thousands of documents it has produced in this case, which is an unfair and unreasonable burden. If Defendants will identify the specific documents about which it wishes to inquire, CGG will appropriately prepare the witness.

17. The Organization's activities in other States concerning the utilization of electronic voting systems and/or Risk-Limiting Audits.

No objection.

18. The Organization's allegations in its various motions for injunctive relief sought in this case.

On its face, this topic seeks to require the CGG designee to have encyclopedic knowledge of the content of the various motions for injunctive relief filed in this case, including motions filed by the Curling Plaintiffs. Such a requirement would be unfair and unreasonable burden, and CGG object to the same.

19. All factual and legal contentions of the Organization in relation to this case, including but not limited to contentions of the Organization concerning the 2020 elections and January 2021 Runoff in Georgia.

On its face, this topic seeks to require the CGG designee to have encyclopedic knowledge of all of CGG's factual and legal contentions in this case. Requiring a lay witness to articulate legal theories and requiring any fact witness to recite all contentions that have been made over a four-year period is an unfair and unreasonable burden, and CGG object to the same.

20. The Organization's knowledge of any ballot altered, not counted, or otherwise impaired by use of the Dominion BMD System in Georgia.

No objection.

21. The Organization's knowledge of any security breach or hack of Georgia's election system, including any such breach or hack that resulted in the miscounting or tabulation of any votes.

No objection.

22. The Organization's review of expert reports produced in this case, including but not limited to the expert reports of Dr. J. Alex Halderman.

No objection.

23. To the extent not otherwise provided herein, all factual matters which have bearing on the Organization's standing in this suit under Article III, Sec. 2, cl. 1.

CGG object to this topic in that it would require opine as to the legal significance of various facts as they relate to the issue of standing. CGG's designee will be prepared to respond to factual questions about standing but not legal theories of the legal significance of various facts as they relate to standing.

24. The process by which the Organization searched for and identified documents responsive to discovery requests served in this case.

No objection.

This 15th day of March 2022.

/s/ Cary Ichter

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DONNA CURLING, ET AL.,
Plaintiffs,

v.

BRAD RAFFENSPERGER, ET AL.,
Defendants.

Civil Action No. 1:17-CV-2989-AT

CERTIFICATES OF SERVICE AND COMPLIANCE

Pursuant to LR 7.1(D), I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Century Schoolbook and a point size of 13.

I further certify that on March 15, 2022, a copy of the foregoing was electronically served by sending a pdf. of same to all attorneys of record in this matter.

/s/ Cary Ichter
Cary Ichter

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, ET AL.

Plaintiffs,

v.

BRIAN KEMP, ET AL.

Defendants.

**Civil Action
No. 1:17-cv-02989-AT**

**THIRD AMENDED COMPLAINT OF PLAINTIFFS COALITION FOR
GOOD GOVERNANCE, LAURA DIGGES, WILLIAM DIGGES III,
RICARDO DAVIS, AND MEGAN MISSETT**

**Exhibit
CGG 0003**

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Plaintiffs Coalition for Good Governance (“**Coalition**”), Laura Digges, William Digges, Ricardo Davis, and Megan Missett (the “**Coalition Plaintiffs**”), for their Third Amended Complaint, allege as follows:

I. INTRODUCTION

1. This Third Amended Complaint is being filed at a time when virtually every American voter has come to understand that the nation’s election infrastructure is susceptible to malicious manipulation from local and foreign threats. Yet, Georgia’s election officials continue to defend the State’s electronic voting system that is demonstrably unreliable and insecure, and have repeatedly refused to take administrative, regulatory or legislative action to address the election security failures.

2. This is a civil rights action for declaratory and injunctive relief brought against Georgia elections officials who have adopted—and who require Georgia voters to use, as a condition of being able to cast a ballot in their polling places—the State’s direct recording electronic voting machines (“**DREs**”) as the means of casting their ballot. Because Georgia’s DRE touchscreen voting machines are insecure, lack a voter-verified paper audit capacity, fail to meet minimum statutory requirements, and expose voters to being deprived of the ability to cast a “secret ballot,” Ga. Const. Art. II, § 1, ¶ 1, requiring voters to use those

machines violates the voters’ constitutional rights to have their votes recorded in a fair, precise, verifiable, and anonymous manner, and to have their votes counted and reported in an accurate, auditable, legal, and transparent process.

3. “The right to vote freely for the candidate of one’s choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government.” *Reynolds v. Sims*, 377 U.S. 533, 555 (1964). The secret ballot—“the hard-won right to vote one’s conscience without fear of retaliation”—is a cornerstone of this right to freely vote for one’s electoral choices. *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 343 (1995).

4. The Coalition Plaintiffs challenge Georgia’s use of DREs in the May 2018 and November 2018 General Elections; in any Runoff or Special Elections and in any of the numerous other elections, including special elections and runoffs for vacancies, that will be conducted in Georgia during 2018 (collectively, the **“Relevant Upcoming Elections”**).¹ Without this Court’s intervention, the flawed and legally deficient DRE voting units will be used to conduct these elections, causing the true results of these elections to be uncertain. The continued use of unreliable un-auditable voting machines has a deleterious impact on the

¹ See Georgia Secretary of State, *2018 Elections and Voter Registration Calendar*, http://sos.ga.gov/index.php/elections/2018_elections_and_voter_registration_calendar (last visited Apr. 2, 2018).

governance of the State and its jurisdictions, when voters have increasing reasons to lose confidence in the stated election results. Since the action was initially filed in Fulton County Superior Court on July 3, 2017, the State and its counties and municipalities have continued to conduct scores of regularly scheduled and special elections. For example, on November 7, 2017, WAGA reported on the results of over 400 races in North Georgia alone.² There have been at least 12 special state legislative races and 5 runoffs since this case was filed. In addition to the May primary election, a July special election and primary run-off election are scheduled prior to the November general election.

5. The Coalition Plaintiffs seek to have the Relevant Upcoming Elections conducted using verifiable paper ballots. The paper ballots may be counted using Georgia's currently owned and certified optical scanning system or, alternatively, counted by hand. Both voting methods are feasible and authorized by Georgia's election statutes.

6. The relief requested is especially critical since Plaintiff Coalition and its members have found the doors to Georgia's ballot counting rooms locked, leaving them unable to watch how Georgia's elections are conducted, despite the

² See Fox 5 News, *Results from more than 400 races across north Georgia*, <http://www.fox5atlanta.com/news/georgia-heads-to-the-polls-tuesday-for-municipal-elections> (last visited Apr. 4, 2018).

obligation of Georgia’s election officials under O.C.G.A. § 21–2–406 to “perform their duties in public.”

7. By this Third Amended Complaint, the Coalition Plaintiffs seek to remedy Georgia’s unreliable, insecure and unverifiable election methods. This Third Amended Complaint is filed in an environment of alarming national news concerning the vulnerability of our country’s election infrastructure. Georgia is frequently reported in the media as being the most populous of only five (5) states in the country that continue to utilize unverifiable electronic voting statewide. Admonitions from authorities regarding the serious risks of paperless electronic voting machines are escalating as the 2018 mid-term elections approach. Meanwhile, those in Georgia with the political power to remedy the situation have done nothing.

8. Locally, Atlanta residents recently have been reminded of the very real disruption that cyber-attacks on government computer systems can create as they are experiencing loss of some City of Atlanta services following a ransomware attack on March 22, 2018. Atlanta city government is still reeling from the attack at the time of this filing. There is no rational reason to believe that the current voting system, run on outdated computers using outdated operating systems, could defend against such an attack in the 2018 elections.

9. On March 20, 2018, the United States Senate Select Committee on Intelligence issued initial recommendations on election security, including a “minimum” standard of a voter-verified paper trail.³ The recommendation to use paper ballots with post-election audits echoed the nearly universal warnings of voting system experts over the last fifteen years. National and local media reports have repeatedly described officials’ concerns of immediate cybersecurity risk of undetected system compromises. It is universally acknowledged that voting machines, tabulation computers, voter registration records, and ballot provisioning systems are exposed to cybersecurity threats in most jurisdictions at unacceptable levels. Making the situation worse still, the use of an electronic voting system without independent paper records of voter intent makes it all but impossible for election officials to detect attacks when they have occurred. These factors render our elections, particularly elections involving Georgia’s un-auditable voting system, increasingly attractive targets for foreign adversaries. Meanwhile, Georgia

³ The Select Committee determined that, “States should rapidly replace outdated and vulnerable voting systems. At a minimum, any machine purchased going forward should have a voter-verified paper trail and no WiFi capability.” U.S. Senate Select Committee on Intelligence, *Russian Targeting Of Election Infrastructure During The 2016 Election*, <https://www.burr.senate.gov/imo/media/doc/One-Pager%20Recs%20FINAL%20VERSION%203-20.pdf> (last visited Apr. 1, 2018).

has demonstrated a conscious disregard for these threats and a lack of interest in solving the problem, impacting every voter in the State of Georgia.

10. Despite the constant drum-beat of warnings coming from the federal government, technology experts, security experts, the media, and voters, Georgia's General Assembly closed its 2017–18 session on March 29, 2018, having specifically debated the issue in the proposed Senate Bill 403 (“**SB403**”) but without ultimately enacting that bill or any other palliative measure. Georgia's legislature thus has done ***nothing*** to improve an election infrastructure that is widely recognized as one of the least secure in the country.

11. In August 2016, the State of Georgia experienced massive security breaches exposing critical vulnerabilities in its centralized election computer operations--weaknesses so pervasive as to expose every voting machine and tabulating program in the State to the risk of undetectable malware. Yet Georgia's General Assembly declined to act on voting system and election security issues during both the 2017 and the 2018 legislative sessions.

12. While SB403 acknowledged some of the problems afflicting Georgia's voting system, the proposed legislation failed to address what is required to remedy the problem. Crucially, though its proponents called the bill a “paper ballot” bill, SB403 did ***not*** require hand-marked auditable paper ballots. Instead,

SB403 sought to authorize a new type of unverifiable electronic voting system technology that, while favored by Defendant Secretary of State Brian Kemp and the bill's sponsors, was roundly criticized by experts as an insecure, dangerously hackable, high-risk technology.

13. Strangely, while SB403's provisions authorized limited post-election audits, state legislative races would have been exempted from required audits altogether. The General Assembly demonstrated its clear preference for continuing use of unverifiable voting systems in its deliberations and ultimately failed to address the imminent threats to the electoral process looming with the 2018 mid-term elections.

14. On March 23, 2018, during the legislative session, the U.S. Election Assistance Commission announced that, "Georgia would receive \$10.3 million in federal grants from the recently signed fiscal 2018 government spending bill, combined with \$515,000 in matching funds from the State" for the purpose of "upgrad[ing] its voting machines and mak[ing] other security improvements ahead of the upcoming elections."⁴ Even with immediate funding available,

⁴ Tamar Hallerman & Mark Niese, *Feds to give Georgia \$10 million to upgrade outdated voting machines*, Atlanta Journal Constitution, 2018, <https://www.myajc.com/news/state--regional-govt--politics/feds-give-georgia-million-upgrade-outdated-voting-machines/B8IbGwxNJxtPFloEXn4aIL/> (last visited Apr. 1, 2018).

lawmakers chose to do nothing to improve the State's election security. A simple joint resolution requesting that the State Election Board use its authority to dedicate a very small portion of such funding to further deploy the currently authorized and state-owned paper ballot systems would have signaled lawmakers' desire to implement a verifiable voting system, but the legislature decline to take even that modest step.

15. Defendant State Election Board has known of the massive August 2016 security breaches and vulnerabilities of the election system for over a year, and since this action was filed in July 2017, has known of the specific allegations in this litigation concerning the failures of the election system. Despite having the authority to require Georgia's elections to be conducted using paper ballots counted by optical scanners—widely considered the best practice by voting system experts—and despite having the equipment and software licenses necessary to do so, the State Board has taken no action to mandate the use of paper ballots to protect Georgia's elections. Instead, the State Board has maintained its Election Rule 183–1–12–.01 mandating touchscreen voting machines for in-person voting.

16. As explained in this Complaint, and as will be demonstrated by the Coalition Plaintiffs, the State possesses not only the authority, but the equipment, software licenses and know-how to immediately transition to paper ballots. The

required optical scan equipment is already used for current mail-in paper-ballot processing. The security and reliability that would result from deploying the currently available paper-ballot system far outweighs the administrative inconvenience of converting to hand-marked paper ballots to be counted by existing equipment.

17. The State of Georgia and its officials have the legal, moral, and ethical obligation to secure the State's electoral system. Sadly—and inexplicably—they appear to lack the will to do so. When the political branches have failed to secure fundamental rights in our country, it has traditionally been the Courts that stepped in to do so. In a free society, no right is more precious or important than the right to vote. When the exercise of that right is corrupted, the integrity of the democratic process is corrupted, and the legitimacy of our government suffers as the inevitable consequence. If the right to vote in this society is essential to the integrity of democratic self-governance, then our election processes warrant the most urgent judicial protection. Plaintiffs seek the intervention of this Court because neither the State Board of Elections, the Secretary of State, nor the Georgia General Assembly appear willing to act to protect voters' rights to a secure and accurately counted election process.

II. PARTIES

A. PLAINTIFFS

1. Plaintiff Coalition for Good Governance

18. Plaintiff COALITION FOR GOOD GOVERNANCE is a non-profit corporation organized and existing under the laws of the State of Colorado.

19. Coalition is a membership organization, with a membership that consists of individuals residing in Georgia and across the United States. Individuals become members of Coalition by providing their contact information and indicating a desire to associate with the organization. Members donate money, contribute time, and share information and intelligence with the organization to the extent they are able and wish to do so. Members receive informational communications from Coalition and can benefit from Coalition's facilitation of members' individual participation in civic activities that are germane to the organization's purpose, such as poll watching, auditing election results, and publishing opinion pieces. Members utilize Coalition as a resource to answer a wide range of questions about voting rights, voting processes, open meetings law, public records law, recalls, petition processes, election legislation, and how to challenge election issues they encounter.

20. Coalition's purpose is to preserve and advance the constitutional liberties and individual rights of citizens, with an emphasis on preserving and protecting those private rights of its members that are exercised through public elections.

21. Coalition serves its purpose in multiple ways, including by providing information and education to its members; by serving as a non-partisan educational and informational resource for the public, press, campaigns, candidates, and political parties; by monitoring nationwide developments in election law and technology; by providing speakers for events at educational institutions; by providing commentary from its leadership on election issues; by collaborating in voting rights and election integrity initiatives with other nonpartisan nonprofits and academics; by developing and sharing research and investigation of reported election problems with the press, public and other members of the election-integrity community; and by facilitating the engagement of members and prospective members as non-partisan participants in the electoral process through poll watching, attendance at public meetings, and other civic activities.

22. Coalition, acting on its own behalf, has organizational standing to bring each of the claims for prospective relief stated herein.

23. Coalition, acting on behalf of its members who are threatened with imminent injury-in-fact, including the Member Plaintiffs identified below, also has associational standing to bring the claims for prospective relief stated herein.

**2. Plaintiff Individuals Who Are Members of Coalition
(the “Member Plaintiffs”)**

24. Plaintiff LAURA DIGGES (“**Ms. Digges**”) was a Plaintiff when this action was initially filed in Fulton County Superior Court on July 3, 2017. (ECF No. 1-2.) Ms. Digges has been a member of Coalition since June 2017. Ms. Digges is an elector of the State of Georgia and a resident of Cobb County. Ms. Digges intends to vote in each of the Relevant Upcoming Elections in Cobb County.

25. Plaintiff WILLIAM DIGGES III (“**Mr. Digges**”) was a Plaintiff when this action was initially filed in Fulton County Superior Court on July 3, 2017. (ECF No. 1-2.) Mr. Digges has been a member of Coalition since June 2017. Mr. Digges is an elector of the State of Georgia and a resident of Cobb County. Mr. Digges intends to vote in each of the Relevant Upcoming Elections in Cobb County.

26. Plaintiff RICARDO DAVIS (“**Davis**”) was a Plaintiff when this action was initially filed in Fulton County Superior Court on July 3, 2017. (ECF

No. 1-2.) Davis has been a member of Coalition since May 2017. Davis is an elector of the State of Georgia and a resident of Cherokee County. Davis intends to vote in each of the Relevant Upcoming Elections in Cherokee County.

27. Plaintiff MEGAN MISSET (“**Missett**”) has been a member of Coalition since March 2018. Missett is an elector of the State of Georgia and a resident of Fulton County. Missett intends to vote in each of the Relevant Upcoming Elections in Fulton County.

3. Former Plaintiff Individuals.

28. Former Plaintiff EDWARD CURTIS TERRY (“**Terry**”) was a Plaintiff when the Second Amended Complaint in this action was filed on September 15, 2017, (ECF No. 70, at 11–12, ¶ 31), Terry’s individual claims were dismissed on March, 20, 2018, pursuant to Local Rule 41.3A(2) because Terry did not comply with an Order directing him to apprise this Court of his mailing address. (ECF No. 147.)

4. Plaintiff Individuals Who Are Not Now Members of Coalition (the “Non-Member Plaintiffs”)

29. Plaintiff DONNA CURLING (“**Curling**”) was a Plaintiff and member of Coalition when this action was initially filed in Fulton County Superior Court on July 3, 2017. (ECF No. 1-2, at 6–7, ¶¶ 12, 13, 15.) Curling was a member of

Coalition between May 2017 and December 2017. Curling's claims are not amended by this Third Amended Complaint.

30. Plaintiff DONNA PRICE ("**Price**") was a Plaintiff and member of Coalition when this action was initially filed in Fulton County Superior Court on July 3, 2017. (ECF No. 1-2, at 7–8, ¶ 12, 15–16.) Price was a member of Coalition between May 2017 and December 2017. Price's claims are not amended by this Third Amended Complaint.

31. Plaintiff JEFFREY SCHOENBERG ("**Schoenberg**") was a Plaintiff when this action was initially filed in Fulton County Superior Court on July 3, 2017. (ECF No. 1-2, at 7–9, ¶ 12, 15, 17.) Schoenberg's claims are not amended by this Third Amended Complaint.

B. DEFENDANTS

1. Defendant Secretary.

32. Defendant BRIAN P. KEMP is sued for prospective declaratory and injunctive relief in his official capacities as the Secretary of State of Georgia and as Chairperson of the State Election Board when this action was initially filed in Fulton County Superior Court on July 3, 2017. Together with any successors in office automatically substituted for him as a Defendant by operation of Fed. R.

Civ. P. 25(d), Defendant KEMP is hereinafter referred to as “**Kemp**” or the “**Secretary.**”

33. In his official and individual capacity, the Secretary is responsible for the orderly and accurate administration of Georgia’s electoral processes. The Secretary’s legal duties, among others, include the following: (i) to approve or discontinue the use of Georgia’s voting systems and to conduct any reexamination of Georgia’s voting systems, upon request or at his own discretion, O.C.G.A. §§ 21-2-379.2(a), -379.2(b), -368(a), -368(b); (ii) to develop, program, build, and review ballots for use by counties and municipalities on direct recording electronic (DRE) voting systems in use in the State, O.C.G.A. § 21-2-50(a)(15); and (iii) to serve as Chair of the State Election Board. O.C.G.A. § 21-2-30(d).

34. The Secretary is also required by law to determine the voting equipment that is to be used to cast and count the votes in all county, state, and federal elections in Georgia and to provide the same type of equipment to all counties in the State on behalf of the State of Georgia. O.C.G.A. § 21-2-300.

2. Defendant State Board Members.

35. Together with the Secretary, Defendants DAVID J. WORLEY, REBECCA N. SULLIVAN, RALPH F. “RUSTY” SIMPSON, and SETH HARP, are sued for prospective declaratory and injunctive relief in their official capacities

as members of Georgia’s State Election Board (the “**State Board**”) when this action was initially filed in Fulton County Superior Court on July 3, 2017.

Together with any successors in office automatically substituted for any of them as Defendants by operation of Fed. R. Civ. P. 25(d), these Defendants are hereinafter collectively referred to as the “**State Board Members.**”

36. Acting through the State Board, the State Board Members collectively are to discharge the following duties of the State Board, among others: (1) to promulgate rules and regulations to obtain uniformity in election practices, as well as the legality and purity of all primaries and elections, O.C.G.A. § 21-2-31(1); (2) to formulate, adopt, and promulgate such rules and regulations, consistent with law, as will be conducive to the fair, legal, and orderly conduct of primaries and elections, O.C.G.A. § 21-2-31(2); (3) to investigate the administration of primary and election laws and frauds and irregularities in elections and to report election law violations to the Attorney General or appropriate district attorney, O.C.G.A. § 21-2-31(5); and (4) to promulgate rules and regulations to define uniform and nondiscriminatory standards concerning what constitutes a vote and what will be counted as a vote for each category of voting system used in Georgia, O.C.G.A. § 21-2-31(7).

37. Acting through the State Board, the State Board Members collectively exercise the power vested in the State Board to enforce compliance with the Georgia Election Code and with the State Board’s regulations. *See* O.C.G.A. §§ 21-2-33.1, -32.

3. Defendants Fulton Board Members.

38. Defendants MARY CAROLE COONEY, VERNETTA NURIDDIN, DAVID J. BURGE, STAN MATARAZZO, and AARON JOHNSON, are sued for prospective declaratory and injunctive relief in their official capacities as members of the Fulton County Board of Registration and Elections (the “**Fulton Board**”) when this action was initially filed in Fulton County Superior Court on July 3, 2017. Together with any successors in office automatically substituted for any of them as Defendants by operation of Fed. R. Civ. P. 25(d), these Defendants are hereinafter collectively referred to as the “**Fulton Board Members.**”

39. The Fulton Board was created by a local Act of the General Assembly. Georgia Law, 1989, Act 250. The Fulton Board has the authority to exercise the powers and duties of a county election superintendent with respect to conducting elections in Fulton County, *see* O.C.G.A. § 21–2–70 to –77. Duties of a county election superintendent include, among others, the following: (i) “To select and equip polling places for use in primaries and elections in accordance with [the

Georgia Election Code],” O.C.G.A. § 21–2–70(4); (ii) “To make and issue such rules, regulations, and instructions, consistent with law, including the rules and regulations promulgated by the State Election Board, as he or she may deem necessary for the guidance of poll officers, custodians, and electors in primaries and elections,” O.C.G.A. § 21–2–70(7); (iii) “To conduct all elections in such manner as to guarantee the secrecy of the ballot and to perform such other duties as may be prescribed by law,” O.C.G.A. § 21–2–70(13); and (iv) to determine whether to use paper ballots when the use of voting machines is not practicable, O.C.G.A. § 21–2–334.

4. All Other Previously Named Defendants Are Now Dismissed Without Prejudice.

40. With effect as of the date of this Court’s Order granting Coalition’s motion for leave to file this Third Amended Complaint as its operative complaint, Plaintiff Coalition voluntarily dismissed without prejudice its claims against any other Defendants previously named in this action.

III. JURISDICTION AND VENUE

41. This action was initially filed in Fulton County Superior Court on July 3, 2017. (ECF No. 1-2, at 7–9, ¶ 12, 15, 17.)

42. The Secretary was served with the state-court Complaint on August 3, 2017. (ECF No. 1, at 4, ¶ 5.)

43. On August 8, 2017, the Secretary and other Defendants removed this action to this Court pursuant to 28 U.S.C. § 1441 and § 1446. (ECF No. 1.)

44. This Court has subject-matter jurisdiction over each of the claims raised in this action pursuant to 28 U.S.C. § 1331 (federal question jurisdiction), § 1343 (jurisdiction over civil rights actions), § 1367 (supplemental jurisdiction), § 2201 (jurisdiction to grant declaratory relief) and § 2202 (jurisdiction to grant relief ancillary to declaratory judgment).

45. Venue lies in the Northern District of Georgia pursuant to 28 U.S.C. § 1391(b) because multiple defendants reside in this judicial district and all defendants are residents of Georgia and a substantial part of the events or omissions giving rise to the Plaintiffs' claims occurred in this judicial district.

IV. LEGAL FRAMEWORK

A. The United States Constitution

46. The United States Constitution provides: "The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each state by the legislature thereof..." U.S. Const. Art. I, § 4, cl. 1.

B. The Georgia Constitution

47. The Georgia Constitution provides: “Elections by the people shall be by secret ballot and shall be conducted in accordance with procedures provided by law.” Ga. Const. Art. II, § 1, ¶ 1.

C. The Georgia Election Code

48. The Georgia Election Code (the “**Code**”) provides, in pertinent part: “All primaries and elections in this state shall be conducted by ballot, except when voting machines are used as provided by law. A ballot may be electronic or printed on paper.” O.C.G.A. § 21–2–280.

49. The Code requires that uniform voting equipment “shall be provided to each county by the state, as determined by the Secretary of State.” *See* O.C.G.A. § 21–2–300.

50. Specifically, the Code requires the Secretary to furnish “a uniform system of direct recording electronic (DRE) equipment” to each county. O.C.G.A. § 21–2–379.3, and authorizes the use of DRE equipment under required conditions in numerous provisions of Title 21, Chapter 2, Article 9, Part 5.

51. The Code establishes the following requirements for DREs in addition to other minimum operating standards:

No direct recording electronic voting system shall be adopted or used unless it shall, at the time, satisfy the following requirements:

....

(6) It shall permit voting in absolute secrecy so that no person can see or know for whom any other elector has voted or is voting, save an elector whom he or she has assisted or is assisting in voting, as prescribed by law;

....

(8) It shall, when properly operated, record correctly and accurately every vote cast;

O.C.G.A. § 21–2–379.1.

52. The Code requires that, “All direct recording electronic (DRE) units and related equipment, when not in use, shall be properly stored and secured under conditions as shall be specified by the Secretary of State.” O.C.G.A. § 21–2–379.9(a).

53. The Code requires county election superintendents who conduct elections using DREs to do the following:

- “examine each unit before it is sent to a polling place, verify that each registering mechanism is set at zero, and properly secure each unit so that

the counting machinery cannot be operated until later authorized,” O.C.G.A. § 21-2-379.6(a);

- three days before every election, “have each DRE unit tested to ascertain that it will correctly count the votes cast for all offices and on all questions,” O.C.G.A. § 21-2-379.6(c);

- “require that each DRE unit be thoroughly tested ... prior to the delivery of each DRE unit to the polling place,” O.C.G.A. § 21-2-379.7(b);

- “[p]rior to opening the polls each day[,] ... certify that each unit is operating properly and is set to zero....” O.C.G.A. § 21-2-379.7(b);

- “[e]nsure that each DRE unit’s tabulating mechanism is secure throughout the day during the primary or election,” O.C.G.A. § 21-2-379.7(d)(3);

- use only DREs that “permit voting in absolute secrecy so that no person can see or know how any other elector has voted or is voting,” O.C.G.A. § 21-2-379.1(6), and “conduct all elections in such manner as to guarantee the secrecy of the ballot,” O.C.G.A. § 21-2-70(13); and

- “make and issue such rules, regulations, and instructions, consistent with law, including the rules and regulations promulgated by the State Election Board, as he or she may deem necessary for the guidance of poll officers, custodians, and electors in primaries and elections[,]” O.C.G.A. § 21-2-70(7);

- “perform their duties in public,” O.C.G.A. § 21–2–406; and
- comply with the legal requirement that “all proceedings at the tabulating center and precincts shall be open to the view of the public,” O.C.G.A. § 21–2–379.11.

54. The Code authorizes the use of paper ballots for use in “any primary or election in which the use of voting equipment is impossible or impracticable, for the reasons set out in [§] 21–2–334....”, O.C.G.A. § 21–2–281—i.e., when the use of voting machines is required but “is not possible or practicable” or “if, for any other reason, at any primary or election the use of voting machines wholly or in part is not practicable,” O.C.G.A. § 21–2–334.

55. The Code defines electors who do not vote in person at the polls on Election Day to vote as “absentee electors.” O.C.G.A. § 21–2–380(a).

56. The Code permits absentee electors who do not vote in person to use a paper absentee ballot that is mailed in or hand delivered, *see* O.C.G.A. § 21–2–385, and generally counted by optical scan equipment, but the Code requires absentee electors who vote in the advance voting period who vote in person to vote by DRE *if* DRE machines are used in the polling places on election day, *see* O.C.G.A. § 21–2–383(b).

57. The Code authorizes the use of paper ballots counted by optical scanning equipment and sets forth requirements for their approval and operation. *See* O.C.G.A Title 21, Chapter 2, Article 9, Part 4.

D. Georgia's Regulation of Elections

58. The State Board's rules implementing the Code require that all voters who cast ballots in person at the polls on Election Day must vote by DRE:

Rule 183-1-12-.01 Conduct of Elections: Beginning with the November 2002 General Election, all federal, state, and county general primaries and elections, special primaries and elections, and referendums in the State of Georgia *shall be conducted at the polls through the use of direct recording electronic (DRE) voting units* supplied by the Secretary of State or purchased by the counties with the authorization of the Secretary of State. In addition, absentee balloting shall be conducted through the use of optical scan ballots which shall be tabulated on optical scan vote tabulation systems furnished by the Secretary of State or purchased by the counties with the authorization of the Secretary of State; provided, however, that the use of direct recording electronic (DRE) voting units is authorized by the Secretary of State for persons desiring to vote by absentee ballot in person.

Ga. Comp. R. & Regs. r. 183-1-12-.01 (emphasis added).

V. GENERAL ALLEGATIONS

A. How Georgia’s Voting System Works.

59. The voting system configuration most recently provided to Georgia’s counties by the Secretary consists of the following configuration of hardware components and related firmware and software:

- Diebold Election Systems (“**Diebold**”)⁵ AccuVote DRE touchscreen voting units (“**AccuVote DREs**”):
 - R6 TS model, with BallotStation version 4.5.2! firmware.
 - TSx model, with BallotStation version 4.5.2! firmware.
- Diebold optical scanners for tabulating paper ballots.
- Electronic Poll Books with barcode scanner to scan identification.
- Diebold General Election Management Software (“**GEMS**”) for tabulation and reporting of data generated by AccuVote DRE and Diebold optical scanners.

(such configuration, “**Georgia’s Voting System**”).

60. On information and belief, Georgia uses approximately 27,000 Diebold AccuVote DRE touchscreen voting machines. These AccuVote DREs are located at polling locations during elections, where they are used by electors who vote absentee ballots in person during early voting as authorized by O.C.G.A. § 21–2–385(d) and by electors who vote in person on Election Day at the polls in

⁵ Diebold Election Systems changed its name to Premier Election Solutions in 2007. Diebold’s election system business was subsequently acquired by Dominion Voting Systems.

their home precincts. In Fulton County, TSx units are used as an intermediate device for electronic transmission of ballot data collected on TS units to the county GEMS server.

61. The use of AccuVote DREs makes Georgia's elections unverifiable, unauditible, and vulnerable to undetectable manipulation. AccuVote DREs create no verifiable record of voter intent, unlike optical scanner components that rely on a voter-marked paper ballot as a verifiable official record.

62. Each AccuVote DRE internally contains much of the same hardware that might typically be found in a very low-end general-purpose personal desktop computer in use in the early 2000s.

63. Georgia's AccuVote DREs run a Diebold-modified version of Microsoft's Windows CE version 4.1 operating system—which Microsoft stopped supporting in early January 2013. As a consequence, Microsoft is no longer issuing updates or security patches for that software.⁶

64. A proprietary Diebold software application called BallotStation runs on top of the Windows operating system on AccuVote DREs and provides the user interface that voters and poll workers see. BallotStation interacts with the voter,

⁶ See Wikipedia, *Windows Embedded Compact*, https://en.wikipedia.org/wiki/Windows_Embedded_Compact (last visited Feb. 12, 2018).

accepts and records votes, counts the votes recorded on the DRE, and performs all other election-related processing by the DRE.

65. AccuVote DREs are configured for each election by inserting a memory card into a slot behind a locked door on the side of the machine.

66. Before the election, the file system on the memory card stores the election definition, sound files, translations for other languages, interpreted code that is used to print reports, and other configuration information.

67. AccuVote DREs use software installed on the unit to display graphical information to the voter that indicates which part of the touchscreen display corresponds to particular electoral choices.

68. Voters record their preferences by physically touching the part of the screen that corresponds to voter's preferred choice.

69. When operating properly, AccuVote DREs use software installed on the unit to translate the voter's physical act of touching a particular place on the touchscreen into a vote for the corresponding candidate or issue.

70. When operating properly, AccuVote DREs use software installed on the unit to change what is graphically displayed on the touchscreen to indicate to the voter that a particular electoral choice has been electronically registered by the unit.

71. When operating properly, AccuVote DREs use software installed on the unit to record the voter's choice on both the DRE's removable memory card and into the machine's internal flash memory. Both such records of the voter's choices are unreadable to humans.

72. Georgia's AccuVote DREs do not record a paper or other independent verifiable record of the voter's selections.

73. Upon the closing of the polls, poll workers cause AccuVote DREs to interpret collected electronic information and convert it to human readable form to print a paper tape of vote totals recorded on each machine.

74. After the tape of the DREs machine's vote totals is printed, the removable DRE memory cards are taken from each of the AccuVote DREs and secured for transport either to a satellite vote transmission center, in the case of Fulton County, or to the county election office in other counties.

75. On election night, AccuVote DRE memory cards from polling places are collected and uploaded into the Diebold GEMS server (running on a desktop computer) where the GEMS software combines DRE vote data with data from mail-in absentee ballots, and consolidated preliminary results reports are created and printed.

76. Mail-in absentee paper ballots and provisional paper ballots are scanned and tabulated by Diebold AccuVote Optical Scan units, located in the office of the superintendents of elections.

77. The Diebold AccuVote Optical Scan units are programmed with software to scan, count, tabulate and report the paper ballot vote counts.

78. On election night, Diebold AccuVote Optical Scan unit memory cards are uploaded to the Diebold GEMS server and combined with the data from the AccuVote DREs to create unofficial consolidated results and generate reports in human readable form.

B. AccuVote DREs Are Insecure and Vulnerable to Malicious Hacking.

79. Scores of news reports in the last year have amplified the fifteen-plus years of warnings from voting system computer scientists that paperless balloting is unreliable, unquestionably insecure, and unverifiable because paperless balloting cannot be audited.

80. In January 2018, the Congressional Task Force on Election Security formed by House Democratic Leader Nancy Pelosi and others issued a Final

Report addressing the insecurity of the voting infrastructure in the United States.

The Final Report warned:

Given the breadth of security risks facing voting machines, it is especially problematic that approximately 20% of voters are casting their ballots on machines that do not have any paper backup. These voters are using paperless Direct Recording Electronic (DRE) machines that have been shown over and over again to be highly vulnerable to attack. Because these machines record votes on the internal memory of the machine, and do not leave any paper backup, it is near impossible to detect whether results have been tampered with.⁷

81. Such alarming findings about the security of DREs are not new. In 2007, California’s then Secretary of State Debra Bowen (“**Secretary Bowen**”) and Ohio’s Secretary of State Jennifer Brunner (“**Secretary Brunner**”) separately commissioned and published independent research studies that included the entire Diebold AccuVote voting system.

82. Secretary Bowen’s “Top-to-Bottom Review” (“**TTBR**”)⁸ of California’s voting system produced a detailed scientific review of a Diebold AccuVote voting system that used newer, upgraded—and thus presumably more

⁷ Congressional Task Force of Election Security, *Final Report*, <https://democrats-homeland.house.gov/sites/democrats.homeland.house.gov/files/documents/TFESReport.pdf> (Feb. 14, 2018), at 24 (last visited Apr. 2, 2018).

⁸ See Joseph A. Calandrino, et al., *Source Code Review of the Diebold Voting System*, <http://votingsystems.cdn.sos.ca.gov/oversight/ttbr/diebold-source-public-jul29.pdf> (Jul. 20, 2007) (last visited Apr. 2, 2018).

secure—Diebold voting system components than the AccuVote DREs that are currently used in Georgia.

83. Secretary Brunner’s Evaluation and Validation of Election-Related Equipment, Standards and Testing (“**EVEREST**”)⁹ initiative likewise examined a newer version of the AccuVote DREs than Georgia uses.

84. The TTBR found that California’s AccuVote DREs were “inadequate to ensure accuracy and integrity of the election results...”; that the system contained “serious design flaws that have led directly to specific vulnerabilities, which attackers could exploit to affect election outcomes...”; and that “attacks could be carried out in a manner that is not subject to detection by audit, including review of software logs.”¹⁰

85. The EVEREST report concluded that Ohio’s voting “system lacks the technical protections necessary to guarantee a trustworthy election under operational conditions. Flaws in the system’s design, development, and processes lead to a broad spectrum of issues that undermine the voting system’s security and

⁹ Pennsylvania State Univ., et al., *EVEREST: Evaluation and Validation of Election-Related Equipment, Standards and Testing*, <https://www.eac.gov/assets/1/28/EVEREST.pdf> (Dec. 7, 2007) (last visited Feb. 5, 2018).

¹⁰ See California Secretary of State, *Withdrawal Of Approval*, <http://votingsystems.cdn.sos.ca.gov/vendors/premier/premier-11824-revision-1209.pdf> (Dec. 31, 2009 rev.), at 2, 2, 3 (last visited Apr. 2, 2018).

reliability. The resulting vulnerabilities are exploitable by an attacker, often easily so, under election conditions.”¹¹

86. Citing the failures and vulnerabilities of the Diebold’s AccuVote voting system identified in the TTBR, Bowen decertified California’s voting system.¹²

87. The TTBR and the EVEREST reports are consistent with other published scientific reviews of AccuVote DREs that concluded the security and design failures of AccuVote DREs render the units unfit for use in public elections.¹³

88. The only record of a voter’s selection kept by Georgia’s AccuVote DREs is the digital record created in the DRE’s computer memory by the executable software that is installed on the individual DRE voting unit. This digital record is only as trustworthy as the software that writes the information to memory.

89. As indicated by the TTBR and EVEREST reports, the design of AccuVote DREs permits unauthorized, surreptitious manipulation of software

¹¹ See *EVEREST*, supra note 9, at 103.

¹² See *Withdrawal Of Approval*, supra note 10, at 5.

¹³ See, e.g., Candice Hoke, *Judicial Protection of Popular Sovereignty: Redressing Voting Technology*, 62 *Cas. W. Res. L. Rev.* 997 (2012), available at, <http://scholarlycommons.law.case.edu/caselrev/vol62/iss4/6> (last visited Apr. 4, 2018).

installed on individual machines that causes the AccuVote DREs to record and report false votes and that is, for all practical purposes, undetectable by election officials.

90. As indicated by the TTBR and EVEREST reports, the results produced by an AccuVote DRE are not reliable because the machine's software, which is responsible for correctly recording voter choices, is subject to undetectable manipulation.

91. As indicated by the TTBR and EVEREST reports, the results produced by an AccuVote DRE are not trustworthy because the unreliable software is likewise responsible for reading the DRE unit's memory and reporting the recorded results.

C. AccuVote DREs Fail to Provide Absolute Secrecy of the Ballot.

92. Georgia's AccuVote DREs record votes in the order in which they are cast and otherwise associate each electronic ballot with a unique serial number and timestamp that can be used to determine the ballot's position in the chronology of votes cast on the machine. These design flaws render the electronic ballots cast on AccuVote DREs capable of being matched to voter records maintained by pollworkers and pollwatchers, or to polling place security video, or to ExpressPoll book timestamps, each of which makes it possible to connect many voters with

their DRE ballots in violation of Georgia's state constitutional requirements of absolute secrecy of the ballot.

D. Security Breaches at KSU and CES Have Further Compromised Georgia's Voting System.

93. From at least 2002 until at least December 31, 2017, Secretary Kemp contracted with the Board of Regents of the University System of Georgia and through Kennesaw State University ("KSU"), a unit of the University System of Georgia, for the creation of the Center for Election Services ("CES") at KSU to assist the Secretary in the fulfillment of his statutory duties to manage Georgia's election system.

94. Acting under contract as Kemp's agents, KSU, CES and CES's Executive Director Merle King ("**King**") maintained a computer server with the URL "elections.kennesaw.edu," on which they hosted an enormous assemblage of electronic files consisting of software applications, password files, encryption keys, voter information registration information, technical training videos, and other sensitive information critical to the safe and secure operation of Georgia's Voting System.

95. The information hosted on the "elections.kennesaw.edu" server was not authorized to be publicly accessible. But between at least August 2016 and

March 2017, and likely for a much longer period of time, this server was fully accessible to any computer user with Internet access.

96. The “elections.kennesaw.edu” server was in fact accessed from the public Internet by an unknown number of unauthorized individuals, including cybersecurity researcher Logan Lamb (“**Lamb**”), his colleague Chris Grayson (“**Grayson**”), and KSU’s own computer science instructor Andy Green (“**Green**”).

97. In late August 2016, Lamb freely accessed files hosted on the “elections.kennesaw.edu” server, including the voter histories and personal information of all Georgia voters, tabulation and memory card programming databases for past and future elections, instructions and passwords for voting equipment administration, and executable programs controlling essential election resources. When he accessed these sensitive files, Lamb noted that the files had been publicly exposed for so long that Google had cached (i.e., saved digital backup copies of) and published the pages containing many of them.

98. Lamb immediately recognized that these files were a high-value target for malicious users who might want to manipulate Georgia’s elections, not only in the November 2016 general election, but future elections as well, because he knew that the files created and maintained on this server were used to program virtually all other voting and tabulation equipment used in Georgia’s elections.

99. As a computer scientist and security researcher, Lamb knew that introducing malware into key files hosted on the “elections.kennesaw.edu” server could permit a malicious user to infect Georgia’s Voting System with a computer virus that could be designed to travel across jurisdictions and equipment and potentially alter or control the results in multiple future elections with very little risk of detection.

100. On or about August 28, 2016, Lamb promptly contacted King by telephone and email to warn him that CES should assume that the sensitive documents hosted on the “elections.kennesaw.edu” server had already been downloaded by unauthorized persons. King responded by assuring Lamb that the security issue would be addressed, but King simultaneously warned Lamb to keep his discovery of the server’s vulnerabilities to himself or else, King warned, Lamb would be “crushed” by the politicians “downtown.”

101. King immediately informed CES staff of the breach, and KSU IT management was asked for advice and assistance on or about August 29, 2016. Public records demonstrate that in early September 2016, in a series of internal email communications, KSU’s information technology staff member William Moore informed CES staffers Michael Barnes and Steven Dean and Information Technology professionals of KSU Tyler Hayden, Jason Figueroa, Matthew Sims,

and Chris Gaddis that the State's primary voting systems server had "exploitable," "severe," and "critical" vulnerabilities, and Stephen Gay, KSU's Chief Information Security Officer, ordered security scans of the CES server.

102. In October 2016, in a series of internal email communications sent between William Moore, King, Michael Barnes, Steve Dean, Stephen Gay, Chris Gaddis, Jason Figueroa, KSU's information technology staff described the "elections.kennesaw.edu" server as having "40+ critical vulnerabilities."

103. Despite these internal communications within KSU, and despite King's commitment to Lamb to ensure that the software, data, and the "elections.kennesaw.edu" server would be secured, neither Secretary Kemp nor his agents KSU, CES, and King secured the server, which remained easily accessible from the public Internet.

104. Lamb and colleague Grayson accessed the server again several times in late February 2017 and on March 1, 2017, and they were repeatedly able to access and download the same types of files that Lamb had accessed months earlier.

105. On March 1, 2017, Grayson contacted KSU Computer Science Instructor Green and informed him of the exact times and IP addresses of his own recent repeated access of the unsecured voting system server.

106. Green replicated Lamb and Grayson's access to the server and its sensitive files and then contacted Stephen Gay, who finally caused the elections server to be isolated from the public Internet on or about March 1, 2017.

107. It is widely and generally known from public media reporting both prior to and since the 2016 presidential election that foreign governments and other unknown suspect parties have actively probed state election systems in attempts to gain unauthorized access and manipulate the voter information and computer systems used to conduct American elections.

108. Public reports have documented that these efforts targeting American voting systems have included unauthorized intrusions into the very same kind of computer systems and files that Lamb, Grayson, and Green found to be completely unprotected from external access in Georgia for at least seven consecutive months from August 2016 through February 2017.

VI. SPECIFIC ALLEGATIONS

A. Conduct of All Defendants—Past and Threatened

109. All Defendants, at all times material to this Complaint, knew that AccuVote DREs did not and cannot meet Georgia's statutory and regulatory requirements for certification, safety, security, and accuracy equipment as provided in Title 2 Chapter 21 Article 9 Part 5.

110. All Defendants, at all times material to this complaint, knew that software applications, password files, encryption keys, voter information registration information, and other sensitive information critical to the safe and secure operation of Georgia’s Voting System had been unsecured, breached, and compromised; could not be presumed to be uncorrupted and should instead have been presumed to be compromised; and that Georgia’s Voting System is materially noncompliant with applicable Election Code statutes and governing regulations as a result.

111. From at least August 2016 until the present, the Secretary and his agents—and from at least March 2017 all Defendants—knew or should have known that the software, data, and voter information hosted on the “elections.kennesaw.edu” server at KSU had been repeatedly compromised by unauthorized access.

112. All Defendants have known at all times material to this Complaint that no efforts have been made to remediate the compromised software programs and machines or to identify and remove any malware that was likely introduced during the lengthy security breaches referred to herein on the “elections.kennesaw.edu” server that hosted the election-specific software applications and data that are re-installed on every piece of voting and tabulation

equipment used to conduct Georgia's elections in advance of each election conducted using Georgia's Voting System.

113. All Defendants, at all times material to this Complaint, knew or should have known of numerous expert opinions and academic research identifying security vulnerabilities in AccuVote DREs and advising against the use of AccuVote DREs in public elections because of their demonstrable lack of safety, reliability, and trustworthiness.

114. All Defendants, at all times material to this complaint, knew or should have known that they were incapable of confirming the integrity of the software on AccuVote DREs and incapable of certifying that election results produced by AccuVote DREs were correct, given that malicious manipulations are generally undetectable, in part because of the inferior engineering of the system.

115. By choosing to move forward in using the AccuVote DREs to conduct the November 2016 general election, the April and June 2017 Congressional District 6 ("CD6") Special Election Runoff and Special Election, and other elections from November 2016 to the present (the "**Relevant Past Elections**"), all Defendants caused Georgia voters to cast votes on an illegal and unreliable system that must be presumed to be compromised and that is incapable of producing verifiable results.

116. By choosing to continue using the non-compliant system in the Relevant Upcoming Elections without taking any meaningful steps to remedy known security breaches affecting AccuVote DREs, all Defendants know that they will cause, and intend to cause, Georgia voters to cast votes in the Relevant Upcoming Elections on an illegal and unreliable voting system that must be presumed to be compromised and that is incapable of producing verifiable results.

B. Conduct of Defendant Secretary—Past and Threatened

117. KSU, CES, and King were actual and apparent agents of the Secretary, contracted and supervised by him for a purpose of providing, among other things, “technical support and training of State election officials in the use of the Statewide uniform electronic voting system[;]” “acceptance testing for the fiscal year 2018 of the GEMS software and server, [Georgia’s AccuVote DREs], and the electronic poll book/encoders[;]” and “ballot building election related activities for counties and municipalities in the State of Georgia.”¹⁴

118. At all times material to this Complaint, KSU, CES, and King were acting further to their contractual arrangement with the Secretary, within the scope of their actual and apparent agency, and for the purpose of serving the Secretary.

¹⁴ See Agreement Between the Secretary of State and The Board of Regents of the University System of Georgia, at 2 (July 13, 2017).

119. In their capacity as agents for the Secretary, KSU, CES, and King maintained software applications, password files, encryption keys, voter information registration information, ballot building files, tabulation databases, and other sensitive and essential information critical to the safe and secure operation of Georgia's Voting System on the "elections.kennesaw.edu" server.

120. After it became known that the "elections.kennesaw.edu" server was compromised, none of the Secretary and his agents KSU, CES, and King subsequently made adequate efforts to determine whether malicious hacking of software, data, and voter information hosted on the "elections.kennesaw.edu" server and used in Georgia's Voting System occurred during the at least seven-months-long exposure of the "elections.kennesaw.edu" server content on the public Internet.

121. Neither the Secretary nor any of his agents, KSU, CES, and King, has ever properly verified the integrity of, or repaired or replaced, any of the potentially compromised software, passwords, and encryption keys that were hosted on the "elections.kennesaw.edu" server. As a consequence, the software, passwords, and encryption keys that were presumably compromised all continue to be used on the equipment that will be employed to conduct Georgia's public elections.

122. On July 7, 2017, after this action was initially filed in Fulton County Superior Court on July 3, 2017, KSU, CES, and King, acting as agents of the Secretary, destroyed all data on the hard drives of the KSU “elections.kennesaw.edu” server.

123. On August 9, 2017, less than 24 hours after this action was removed from Fulton County Superior Court to this Court, KSU, CES, and King, acting as agents of the Secretary, destroyed all data on the hard drives of a secondary server hosted at “unicoi.kennesaw.edu”, which contained similar, but not identical data, to that on the “elections.kennesaw.edu” server.

124. On information and belief, the logfiles that contained historical records of external access from the public Internet to the “elections.kennesaw.edu” and “unicoi.kennesaw.edu” servers were deleted when all data on the respective servers’ hard drives was destroyed.

125. The Secretary intends to enforce and will enforce O.C.G.A. § 21–2–383(b) in the Relevant Upcoming Elections in all Georgia counties, and thus will require absentee electors who vote during the advance voting period in person to vote by DRE.

126. The Secretary intends to enforce and will enforce State Election Board Rule 183–1–12–.01 in the Relevant Upcoming Elections in all Georgia counties,

and thus to require that all voters who cast ballots in person at the polls on Election Day must vote by DRE.

C. Conduct of Defendant State Board Members—Threatened

127. The State Board Members, acting in their official capacity through the State Board, intend to enforce and will enforce O.C.G.A. § 21–2–383(b) in the Relevant Upcoming Elections in all Georgia counties, and thus to require absentee electors who vote during the advance voting period in person to vote by DRE.

128. The State Board Members, acting in their official capacity through the State Board, intend to enforce and will enforce State Election Board Rule 183–1–12–.01 in the Relevant Upcoming Elections in all Georgia counties, and thus to require that all voters who cast ballots in person at the polls on Election Day must vote by DRE.

D. Conduct of Defendant Fulton Board Members—Past and Threatened.

129. At all times material to this Complaint, Richard Barron (“**Barron**”) was employed as the staff Director of Registration & Elections for Fulton County, in which capacity he was an actual and apparent agent of the Fulton Board and its official members, the Fulton Board Members, and was contracted and supervised by them.

130. At all times material to this Complaint, Barron acted within the scope of his agency for a purpose of serving the Fulton Board Members and the Fulton Board.

131. On April 18, 2017, Barron and the Fulton Board Members deprived numerous Fulton County voters, including Coalition member Brian Blosser, of the right to cast a ballot in the CD6 Special Election.

132. On April 22, 2017, at a Fulton Board meeting, Barron blamed the disfranchisement of CD6 voters such as Blosser on a software “glitch” of unknown origin that erroneously caused eligible voters to appear to be voters in other congressional districts or unregistered.

133. On November 7, 2017, and December 5, 2017, Barron and the Fulton Board Members aggressively blocked and prevented visual observation by Coalition’s members and representatives of the Fulton Board’s performance of the following election duties:

- a. **North Fulton Annex polling place.** At the close of the polls on November 7 and December 5, at the North Fulton Annex polling place, Barron instructed polling place managers to refuse to permit Coalition Executive Director Marilyn Marks (“**Marks**”) and other members of the public to observe polling

place close-down procedures, vote tabulation and printing of DRE machines' election results. Fulton Board Members' agents and employees refused to permit Coalition's election observers within approximately 50 feet of the DRE machines and process on November 7 and refused to permit them and other members of the public into the polling place at all on December 5. The Fulton Board Members' agents and employees threatened Marks and others with arrest on both occasions, and some members of the public were forcefully escorted from the premises by law enforcement on Barron's instructions. Marks and others filed formal complaints with the Fulton Board which remain unanswered.

- b. **North Fulton Annex satellite location.** On November 7 and December 5, at the North Fulton Annex satellite location, Barron instructed officials not to permit Marks, Missett, and others to observe the implementation of chain of custody procedures or the handling of the memory cards and provisional ballots received from Fulton County precincts before tabulation. Marks, Missett, and other members were prevented

from observing the uploading and electronic transmission of AccuVote DRE memory cards and from entering or seeing into the room in which this important process was occurring behind closed doors.

- c. **English Street Warehouse.** On November 7 and December 5, at the Board's English Street Warehouse, Barron instructed officials not to permit Marks, Missett, and others to observe the public meeting of the Fulton Board Members at which central tabulation of election results was conducted. On November 7, security guards, operating at Barron's instruction, aggressively demanded that Marks and another Coalition representative leave the premises of the building where the Board meeting was taking place and the vote tabulation was being conducted. On Barron's instruction, the security guards threatened Marks and another Coalition representative with physical removal from premises, despite their presence being entirely non-disruptive and despite the press and other members of the public being allowed to attend. On December 5, Barron permitted Marks and Missett to remain in the building during tabulation but did not

allow them to come within 50 feet of documents or discussions, which effectively deprived Marks and Missett of the ability to observe.

134. By preventing public observation of the performance of their duties, the Fulton Board Members violated their statutory duty to “perform their duties in public,” O.C.G.A. § 21–2–406, and also violated the statutory requirement that “all proceedings at the tabulating center and precincts shall be open to the view of the public,” O.C.G.A. § 21–2–379.11. The Fulton Board Members thereby injured Coalition and its representatives by depriving them of their corresponding implied state-created informational rights to observe election officials performing their duties and to obtain public information. The conduct of local official such as Barron and the State Board aggravate the injuries to the constitutional rights of Coalition’s members attributable to Defendants Kemp and the State Board by preventing any public assessment of the integrity of Georgia’s elections.

135. With the authorization of Defendants Kemp and the State Board, the Fulton Board Members intend to continue to prevent the public from observing the performance these duties in the Relevant Upcoming Elections in Fulton County.

136. With the authorization of Defendants Kemp and the State Board, the Fulton Board Members intend to enforce Election Rule 183-1-12-.01 concerning

election day use of DREs and will thus enforce O.C.G.A. § 21–2–383(b) in the Relevant Upcoming Elections in Fulton County, requiring absentee electors who vote in person during the early voting period to vote by AccuVote DRE.

137. With the authorization of Defendants Kemp and the State Board, the Fulton Board Members, acting in their official capacities on behalf of the Fulton Board, intend to enforce and will enforce State Election Board Rule 183–1–12–.01 in the Relevant Upcoming Elections in all Fulton County, and thus to require all voters who cast ballots in person at the polls on Election Day to vote by AccuVote DRE.

138. With the authorization of Defendants Kemp and the State Board, the Fulton Board Members have adopted voting procedures under which individual electronic ballots bearing a unique identifier are transmitted from Fulton County’s AccuVote DREs located in satellite voting centers to Fulton County’s central GEMS tabulation server in clear text (i.e., unencrypted) over an ordinary, unsecured telephone line on Election Night. This practice violates fundamental security principles because it subjects the transmitted votes to manipulation (such as man-in-the-middle interception and substitution of votes) and exposes the votes with their unique identifier to third-party interception, violating voters’ rights of secrecy in voting.

E. Standing of Plaintiff Coalition

139. Coalition has organizational standing on its own behalf and associational standing on behalf of Coalition's individual members to bring each of the claims for prospective relief stated in this Third Amended Complaint.

1. Coalition Has Organizational Standing Derived from Past and Threatened Direct Injuries to Coalition.

140. Coalition has organizational standing, on its own behalf, to bring each of the claims for prospective relief stated in this Third Amended Complaint because Coalition has been and will be directly harmed by having to divert its own personnel and resources to counteract Defendants' unconstitutional enforcement of laws and regulations requiring Georgia voters to use DREs.

141. Coalition possess a legally cognizable interest in pursuing its organizational goals without having to divert resources and personnel to counteract Defendants' illegal acts.

142. Defendants' prior and intended imminent enforcement of O.C.G.A. § 21-2-383(b) and State Election Board Rule 183-1-12-.01 have caused and will cause Coalition to divert resources and personnel to counteract Defendants' illegal acts. Specifically, Coalition has been and will be required by Defendants' past and intended conduct to do the following:

- Divert Coalition’s scarce organizational funds since April 2017 to pay the fees of lawyers for advice and representation, litigation expenses, consulting expert expenses, travel expenses for Coalition’s personnel, and research and copying costs required by Coalition’s efforts to document and resist Defendants’ enforcement of laws and regulations requiring Coalition’s members to vote on DREs;

- Divert approximately 90% of the time of Coalition’s Executive Director Marilyn R. Marks since April 2017 to participation in and management of Coalition’s litigation, educational, and investigative efforts undertaken to counteract Defendants’ conduct in Georgia—time that the Executive Director would otherwise have devoted to Coalition’s ongoing efforts including but not limited to researching and promoting and new post-election Risk Limiting Audit techniques in Colorado; advocacy of secret ballot and voter privacy principles in North Carolina seeking a change in state policy; researching security failures in North Carolina voter registration databases, and advocating for enhanced security; assisting members in researching South Carolina voting system security failures and impacts; educating Colorado voters on the negative impacts of new ballot-selfie laws; assisting Colorado members with organizing plans for a petition for a special election; publishing educational commentary related to election security

and transparency issues; educating public and officials on the dangers of internet voting through publishing and public speaking; assisting in research and planning for film documentary on election security; training members in Colorado for canvass board member duties; assisting Georgia members in evaluating ballot access laws; participating in press interviews regarding election security issues; speaking to civic groups on election security; assisting Colorado members in challenging public records violations for ballots in recent county assembly elections; and assisting members experiencing with problems in accessing public election records in numerous jurisdictions.

- Divert Coalition's organizational personnel and financial resources away from Coalition's established ongoing efforts to conduct research on new voting systems being used in Tennessee and considered in Georgia and other States and summarizing and providing that information to Coalition's members; and

- Divert Coalition's organizational personnel and financial resources away from Coalition's established ongoing efforts to market Coalition to new members and thereby grow Coalition's membership.

143. Defendants' past and imminent future invasions of Coalition's legally protected interests in pursuing its own organizational goals and projects have thus

caused and will continue to cause concrete and particularized harms to Coalition in the form of diverted organizational personnel and financial resources.

144. Coalition has been directly harmed by the conduct of the Fulton Board Members and their agent Barron, done with the authorization of Defendants Kemp and the State Board, which deprived Coalition of its informational rights to observe election officials performing their duties and to obtain public information in furtherance of Coalition's mission of educating and informing its membership.

2. Coalition Has Associational Standing Derived from Past and Threatened Injuries to Coalition's Members.

145. Coalition also has associational standing, on behalf of Coalition's individual Georgia members threatened with imminent injury-in-fact, to bring each of the claims for prospective relief stated in this Third Amended Complaint because: (1) at least one of Coalition's members would have standing to sue each Defendant on each claim in his or her own right; (2) the interests Coalition seeks to protect are germane to Coalition's organizational purpose described above; and (3) the prospective injunctive and declaratory relief requested does not require the participation of Coalition's individual members in this lawsuit.

146. At all times since this case was initially filed in Fulton County Superior Court on July 3, 2017, Coalition's membership has included at least one

eligible elector of the State of Georgia who is a resident in each of Fulton County, Cherokee County, Cobb County, and DeKalb County.

147. In each of the Relevant Past Elections, the Secretary and State Board Members (acting through the State Board) have authorized and required local official such as Barron, and the Fulton Board Members to enforce and threaten to enforce O.C.G.A. § 21–2–383(b) and State Election Board Rule 183–1–12–.01.

Standing of Coalition’s Individual Members

148. The following Coalition members, whose standing to sue is a predicate to Coalition’s associational standing, have standing because each of them suffered concrete and particularized harms and are now threatened with imminent additional injury-in-fact as a result of Defendants’ prior and intended future unconstitutional enforcement of O.C.G.A. § 21–2–383(b) and State Election Board Rule 183–1–12–.01 and prior and intended deprivations of the right to observe election officials in the conduct of their duties.

Past Injury

a) Virginia R. Forney (Fulton County)

149. Virginia R. Forney, (“**Forney**”) has been a member of Coalition since 2015.

150. Forney, an elector of Fulton County, voted in person either during early voting or on Election Day at the polls in all Relevant Prior Elections, requiring her to vote on an AccuVote DRE. Forney is a physician by profession, and multiple patients and others associated with her practice were candidates on the November 2017 City of Atlanta and Fulton County ballot. Forney's work schedule required that she vote early before Election Day in the November 7 election. Aware that a ballot cast by AccuVote DRE was capable of being traced to her and that the risk was particularly enhanced in an early voting polling location with low traffic, and also fearing that her practice would suffer if her vote preferences became known, Forney skipped casting a vote in at least one race to avoid the risk of personal pecuniary harm.

b) Brian Blosser (Fulton County)

151. Brian Blosser, ("**Blosser**") has been a member of Coalition since January 2018.

152. Blosser was prohibited from voting on April 18, 2017, in the CD6 Special Election when his name did not appear on the eligible voter rolls for CD6, and was instead erroneously listed as a resident of CD11. Blosser was not permitted to vote a provisional ballot, even after he made repeated attempts to have Fulton County election officials correct this system error. At a public meeting on

April 22, 2017, Barron and the Fulton Board Members blamed this error on a “software glitch.”

c) Megan Missett (Fulton County)

153. Member Plaintiff Megan Missett, an elector of Fulton County, voted by DRE in each of the last several elections for which she was eligible, including most recently, the Fulton County November 2017 election and December 2017 runoff. Missett was deprived of her right to vote in a verifiable, reliable election conducted in a manner that ensured that her vote would be counted accurately. Missett was deprived of her right to participate in the public observation of the December 5, 2017, runoff election in the City of Atlanta and was thereby deprived of access to public information concerning the election.

d) Mr. and Ms. Digges (Cobb County)

154. Member Plaintiffs Mr. and Ms. Digges, electors of Cobb County, voted a mail-in paper absentee ballot in the June 2017 CD6 Special Election Runoff despite their preferences to vote in their neighborhood precinct on Election Day. Mr. and Ms. Digges chose to vote by mail-in paper absentee ballot because they were aware that an electronic ballot cast using an AccuVote DRE was insecure, not verifiable or re-countable, and incapable of being guaranteed to be a secret ballot. In order to cast their absentee ballots by mail, Mr. and Ms. Digges

were required to undergo the inconvenience of requesting paper ballot and the cost of postage required to mail their ballots. In addition, by choosing to vote by using a mail-in absentee ballot, Mr. and Ms. Digges became subject to the corresponding need to place their ballots in the mail well before Election Day to ensure timely delivery and the ability to confirm timely receipt. Accordingly, Mr. and Ms. Digges were deprived of the ability to await the latest campaign information before making their voting decisions and voting as part of their community in their home precinct along with their neighbors.

e) Mr. Davis (Cherokee County)

155. Member Plaintiff Ricardo Davis, an elector of Cherokee County, voted a mail-in paper absentee ballot in all prior elections for over 10 years (including the November 8, 2016, election), with the exception of Cherokee County Special Election on November 7, 2017. As an Information Technology professional, Davis has been keenly aware of the security and reliability deficiencies of AccuVote DREs and that a vote cast on such voting units cannot be audited or recounted, and that the secrecy of such a vote cannot be guaranteed. To avoid these burdens on his right to vote, Davis avoided voting on a DRE, and instead took steps to cast his votes by mail-in absentee paper ballot. In order to do so, Mr. Davis was required to undergo the inconveniences of requesting paper

ballot and the costs of postage necessary to mail his ballot. In addition, because he chose to vote by means of mail-in absentee paper ballots, Mr. Davis was forced to place his voted ballots in the mail well before Election Day to ensure their timely delivery and to give himself the ability to ensure receipt. Accordingly, Mr. Davis was deprived of the ability to await the latest campaign information before making his voting decisions and to vote on Election Day along with his community members in his nearby neighborhood precinct.

156. In the November 7, 2017, Cherokee County Special Election, Davis was unable to submit his mail-in ballot application in time, so he was required to choose between not voting at all and voting by AccuVote DRE.

157. All of the foregoing Coalition members were injured by being required to vote in an election conducted using AccuVote DREs, which deprived them of their right to participate in a trustworthy and verifiable election process that safely, accurately, and reliably records and counts all votes cast and that produces a reliable election result capable of being verified as true in a recount or election contest.

158. All of the foregoing Coalition members were additionally injured by being required by Defendants to cast votes on AccuVote DREs—and thereby to

suffer violations of their constitutional rights—as a condition of being permitted by Defendants to enjoy the benefits and conveniences of casting a ballot in person.

Imminent Future Injury

159. Each of Coalition’s foregoing members intends to vote in each of the Relevant Upcoming Elections in his or her respective county.

160. Each of Coalition’s Georgia members will be required to cast their votes in the Relevant Upcoming Elections using Georgia’s AccuVote DREs or to suffer the burdens required to obtain and cast a mail-in absentee ballot as an alternative.

161. Each of Coalition’s Georgia members will again be exposed to all the same injuries they have suffered in the past if Defendants again enforce O.C.G.A. § 21–2–383(b) and State Election Board Rule 183–1–12–.01 in the Relevant Upcoming Elections.

162. Each of Coalition’s Georgia members voting in the Relevant Upcoming Elections, if required to vote using an unreliable, untrustworthy AccuVote DRE, will be irreparably harmed in the following ways:

- By suffering burdens and infringements on the fundamental right to vote caused by having to use a voting machine that

cannot be relied upon for a trustworthy and verifiable election result;

- By suffering burdens and infringements on the fundamental right to vote caused by having to use a voting machine that cannot guarantee a secret ballot;
- By suffering burdens and infringements on the First Amendment right to anonymous free speech and association caused by having to use a voting machine that cannot guarantee a secret ballot;
- By suffering unequal protection of the state right to a secret ballot caused by having to use a voting machine that cannot guarantee a secret ballot, while similarly situated absentee electors who vote a mail-in ballot in the same election are allowed to vote a secret ballot;
- By suffering the arbitrary and capricious deprivation without due process of the state right to a secret ballot caused by having to use a voting machine that cannot guarantee a secret ballot;

- By having to endure the foregoing constitutional deprivations as the condition of being allowed to cast a ballot in person at the polls, either during advance voting or on Election Day.

163. Each of Coalition's Georgia members voting in the Relevant Upcoming Elections will be irreparably harmed in the exercise of the fundamental right to vote if his or her votes are tabulated together with the votes of **other** voters who cast their ballots using unreliable, untrustworthy AccuVote DREs.

164. Each of Coalition's Georgia members who to cast his or her individual ballots using AccuVote DREs will be irreparably harmed in the exercise of their constitutional, fundamental right to vote in the Relevant Upcoming Elections if they are required to cast their individual ballots using—or in an election in which anyone used—AccuVote DREs.

165. Each of the foregoing harms to each of Coalition's Georgia members is imminent for standing purposes because each of the Relevant Upcoming Elections is set to occur on a fixed date not later than eighteen months after the date when this action was filed in Fulton County Superior Court on July 3, 2017.

166. None of Coalition's Georgia members can be adequately compensated for these harms in an action at law for money damages brought after the fact because the violation of constitutional rights is an irreparable injury.

VII. CLAIMS

COUNT I: FUNDAMENTAL RIGHT TO VOTE

42 U.S.C. § 1983

Threatened Infringement of the Fundamental Right to Vote in Violation of the Fourteenth Amendment's Guarantee of (Substantive) Due Process

(Right to a trustworthy and verifiable election; Unconstitutional condition)

(Seeking declaratory and injunctive relief against all Defendants)

167. Plaintiff Coalition incorporates and realleges each of the foregoing Paragraphs 1 through 166.

168. The right of all eligible citizens to vote in public elections is a fundamental right of individuals that is protected by the United States Constitution and incorporated against the States by the Due Process Clause of the Fourteenth Amendment.

169. Inherent in individuals' fundamental right to vote is the right to participate in a trustworthy and verifiable election process that safely, accurately, and reliably records and counts all votes cast and that produces a reliable election result capable of being verified as true in a recount or election contest.

170. By requiring the Member Plaintiffs and other members of Coalition to vote using AccuVote DREs in the Relevant Upcoming Elections, Defendants Kemp, the State Board Members, and the Fulton Board Members will knowingly

burden severely and infringe upon the fundamental right to vote of the Member Plaintiffs and other members of Coalition and will injure Coalition by causing it to divert resources and personnel from other ongoing projects.

171. These severe burdens and infringements that will be caused by Defendants' conduct will violate the fundamental right to vote of the Member Plaintiffs and other members of Coalition.

172. These severe burdens and infringements that will be caused by Defendants' conduct are not outweighed or justified by, and are not necessary to promote, any substantial or compelling state interest that cannot be accomplished by other, less restrictive means, like conducting the Relevant Upcoming Elections using paper ballots.

173. Requiring voters to suffer these severe burdens and infringements upon their constitutional right to vote as a condition of being able to enjoy the benefits and conveniences of being permitted to cast their ballots in person at the polls violates the unconstitutional-conditions doctrine.

174. The foregoing violations will occur as a consequence of Defendants Kemp, the State Board Members, and the Fulton Board Members acting under color of state law. Accordingly, Coalition and the Member Plaintiffs bring this

cause of action for prospective equitable relief against Defendants Kemp, the State Board Members, and the Fulton Board Members pursuant to 42 U.S.C. § 1983.

175. Unless Defendants Kemp, the State Board Members, and the Fulton Board Members are enjoined by this Court, then the Coalition Plaintiffs will have no adequate legal, administrative, or other remedy by which to prevent or minimize the irreparable, imminent injury that is threatened by Defendants' intended conduct. Accordingly, injunctive relief against these Defendants is warranted.

WHEREFORE, Plaintiff respectfully requests that this Court preliminarily and permanently enjoin Defendants Kemp, the State Board Members, and the Fulton Board Members from enforcing O.C.G.A. § 21-2-383(b) and State Election Board Rule 183-1-12-.01; and from requiring voters to vote using DREs; and grant such other relief as may be warranted.

COUNT II: EQUAL PROTECTION

42 U.S.C. § 1983

Threatened Infringement of the Fourteenth Amendment's Guarantee of Equal Protection

**(fundamental right to vote, the right to freedom of speech and association, and
the Georgia state constitutional right to a secret ballot; unconstitutional
condition)**

(Seeking declaratory and injunctive relief against all Defendants)

176. Plaintiff Coalition incorporates and realleges each of the foregoing Paragraphs 1 through 166.

177. By requiring the Member Plaintiffs and other members of Coalition to vote using AccuVote DREs in the Relevant Upcoming Elections, Defendants Kemp, the State Board Members, and the Fulton Board Members will knowingly treat the Member Plaintiffs and other members of Coalition who vote by DRE differently than other, similarly situated electors in the same election who vote using mail-in paper ballots.

178. Because of this differential treatment, Member Plaintiffs and other members of Coalition who vote by DRE will suffer greater and more severe burdens and infringements on their underlying substantive rights—namely, the fundamental right to vote, the right to freedom of speech and association, and the

Georgia state constitutional right to a secret ballot—than will other, similarly situated electors.

179. These severe burdens and infringements that Defendants will impose unequally on Member Plaintiffs and other members of Coalition who vote by DRE will violate the Equal Protection Clause of the Fourteenth Amendment.

180. These severe burdens and infringements that will be caused by Defendants' conduct are not outweighed or justified by, and are not necessary to promote, any substantial or compelling state interest that cannot be accomplished by other, less restrictive means, like conducting the Relevant Upcoming Elections using paper ballots.

181. Requiring voters to be deprived of their constitutional right to equal protection of the laws as a condition of being able to enjoy the benefits and conveniences of voting in person at the polls violates the unconstitutional-conditions doctrine.

182. The foregoing violations will occur as a consequence of Defendants Kemp, the State Board Members, and the Fulton Board Members acting under color of state law. Accordingly, Coalition and the Member Plaintiffs bring this cause of action for prospective equitable relief against Defendants Kemp, the State Board Members, and the Fulton Board Members pursuant to 42 U.S.C. § 1983.

183. Unless Defendants Kemp, the State Board Members, and the Fulton Board Members are enjoined by this Court, then the Coalition Plaintiffs will have no adequate legal, administrative, or other remedy by which to prevent or minimize the irreparable, imminent injury that is threatened by Defendants' intended conduct. Accordingly, injunctive relief against these Defendants is warranted.

WHEREFORE, Plaintiff respectfully requests that this Court preliminarily and permanently enjoin Defendants Kemp, the State Board Members, and the Fulton Board Members from enforcing O.C.G.A. § 21-2-383(b) and State Election Board Rule 183-1-12-.01; and from requiring voters to vote using DREs; and grant such other relief as may be warranted.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court:

- A. Enter a judgment finding and declaring it unconstitutional for any public election to be conducted using any model of DRE voting unit;
- B. Enter a preliminary and permanent injunction prohibiting Defendants Kemp, the State Board Members, and the Fulton Board Members from enforcing O.C.G.A. § 21-2-383(b) and State Election Board Rule 183-1-12-.01 and from requiring voters to vote using DREs;

C. Enter a preliminary and permanent injunction prohibiting Defendants Kemp, the State Board Members, and the Fulton Board Members from conducting or authorizing the conduct of any public election using optical scanned paper ballots without requiring the conduct in each case of post-election audits of paper ballots to verify the results reported by the tabulation machines;

D. Enter a preliminary and permanent injunction prohibiting Defendants Kemp, the State Board Members, and the Fulton Board Members from conducting or authorizing the conduct of any public election without requiring subordinate election officials to permit, meaningful public observation of all stages of election processing;

E. Retain jurisdiction to ensure all Defendants' ongoing compliance with the foregoing Orders.

F. Grant Plaintiff an award of its reasonable attorney's fees, costs, and expenses incurred in this action pursuant to 42 U.S.C. § 1988; and

G. Grant Plaintiff such other relief as the Court deems just and proper.

Dated: April 4, 2018.

Respectfully submitted,

/s/ Robert A. McGuire, III

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Admitted Pro Hac Vice (ECF No. 125)

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

**FIRST SUPPLEMENTAL COMPLAINT OF PLAINTIFFS COALITION
FOR GOOD GOVERNANCE, LAURA DIGGES, WILLIAM DIGGES III,
RICARDO DAVIS, AND MEGAN MISSETT**

**Exhibit
CGG 0004**

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Pursuant to Rule 15(d) of the Federal Rules of Civil Procedure, the Coalition Plaintiffs,¹ in this supplemental complaint, hereby set out the following transactions, occurrences, and events that happened after the relation-back date of the Coalition Plaintiffs' Third Amended Complaint (the "**TAC**," [Doc. 226](#)). The allegations and claims stated by this supplemental complaint are additional to, and do not supersede or replace, the allegations and claims stated in the TAC.

I. INTRODUCTION

1. This Court held on September 17, 2018, that the U.S. Constitution requires "transparent, fair, accurate, and verifiable election processes that guarantee each citizen's fundamental right to cast an accountable vote." *Curling v. Kemp*, [334 F. Supp. 3d 1303](#), *aff'd in part, appeal dismissed in part*, No. 18-13951, [2019 WL 480034](#) (11th Cir. Feb. 7, 2019).

2. Counsel for the State Defendants subsequently told this Court on the record that the State of Georgia "took that [order] to heart"—specifically, by adopting legislation switching the state to a voting system that uses "ballot marking devices" ("**BMDs**"). According to counsel for the State, the new legislation:

¹ The "**Coalition Plaintiffs**" are individual Plaintiffs LAURA DIGGES, WILLIAM DIGGES III, RICARDO DAVIS, and MEGAN MISSETT (the "**Member Plaintiffs**"), together with organizational Plaintiff COALITION FOR GOOD GOVERNANCE ("**Coalition**").

changes a number of areas of the Georgia Election Code but with respect to this case specifically the DRE issue and allows the state to implement new voting machines and a new voting system—a back end system also that will address—it addresses the concerns of the Court with the outdated machines.

(Tr. Status Conf. (Apr. 9, 2019), at 4:22–5:12.) The State’s counsel was referring to 2019 HB 316, or Act 24 (“**HB 316**”).

3. On April 2, 2019, Governor Kemp signed HB 316 into law. This new law mandates the implementation of a new uniform statewide voting system that uses

scanning ballots marked by electronic ballot markers and tabulated by using ballot scanners for voting at the polls and for absentee ballots cast in person unless otherwise authorized by law; provided, however, that such electronic ballot markers shall produce paper ballots which are marked with the elector’s choices in a format readable by the elector.

O.C.G.A. § 21–2–300(a)(2).

4. HB 316 requires that the BMD system, following its certification as “safe and practicable for use” by the Secretary of State, must be used in all federal, state, and county elections in Georgia “for voting at the polls and for absentee ballots cast in person.” O.C.G.A. § 21–2–300(a)(2); see also O.C.G.A. § 21–2–383(c).

5. On July 29, 2019, the Secretary issued notice of his intent to select the Dominion Voting System (EAC Certification Number DVS-DemSuite 5.5-A) (the “**Dominion BMD System**”), sold by Dominion Voting Systems, Inc., to be the new BMD system that will replace Georgia’s current, unconstitutional DRE voting system. (Docs. 552, 575.)

6. As shown below in this supplemental complaint, the Dominion BMD System cannot be safely or lawfully used. This is true because the system:

- does not meet Georgia’s legal requirements for a lawful voting system,
- shares the same kinds of security flaws as Georgia’s existing unconstitutional DRE voting system,
- has not been properly tested by the Secretary,
- was improperly certified and thus is illegal to use in Georgia,
- even if operated as designed, fails to produce verifiable, accountable, and auditable vote totals and election results,
- if used to conduct Georgia elections, will severely and unequally burden the constitutional rights of Georgia voters,
- if used to conduct Georgia elections, will deprive Georgia voters of their state constitutional right to a secret ballot, and

- cannot, in any event, practically be implemented within the time frame required to replace the constitutionally deficient DRE voting system, which this Court has ordered the State to discontinue using after the end of 2019. ([Doc. 579](#).)

7. Despite these deficiencies, the Secretary intends for Georgia to use the Dominion BMD System to conduct all elections that will be held in the State of Georgia beginning with (1) the pilot BMD elections for a limited number of November 5, 2019 elections; and continuing with (2) all elections from the March 24, 2020 presidential primary election onward (all of the foregoing-described elections, the “**Upcoming BMD Elections.**”)

8. At each of the Upcoming BMD Elections, the State Defendants and the Fulton County Defendants intend to enforce newly enacted [O.C.G.A. § 21-2-300\(a\)\(2\)](#) and [§ 21-2-383\(c\)](#), both of which require all in-person voters—including absentee in-person voters and Election Day voters—to vote using the Dominion BMD System.

9. Because the Dominion BMD System suffers from numerous legal, functional, and security defects, it fails to satisfy any of the requirements that this Court has held to be essential to constitutional accountable voting processes.

10. This supplemental complaint seeks prospective preliminary and permanent injunctive relief prohibiting the Defendants in each of the Upcoming BMD Elections from employing the Dominion BMD System.

II. PARTIES

A. Plaintiffs

1. Plaintiff Coalition for Good Governance

11. The allegations stated by Paragraphs 18 through 23 of the TAC are adopted here pursuant to Rules 10(b) and 10(c).

2. Coalition's Member Plaintiffs

12. The allegations stated by Paragraphs 24 through 27 of the TAC are adopted here pursuant to Rules 10(b) and 10(c).

B. Defendants

1. Defendants Secretary of State

13. The allegations stated by Paragraphs 32 through 34 of the TAC are adopted here pursuant to Rules 10(b) and 10(c).

14. Defendant BRAD RAFFENSPERGER (“**Raffensperger**” or the “**Secretary**”) is now substituted for former Secretary of State Brian Kemp.

2. Defendant State Board Members

15. The allegations stated by Paragraphs 35 through 37 of the TAC are adopted here pursuant to Rules 10(b) and 10(c).

3. Defendant Fulton Board Members

16. The allegations stated by Paragraphs 38 through 39 of the TAC are adopted here pursuant to Rules 10(b) and 10(c).

III. JURISDICTION AND VENUE

17. The allegations stated by Paragraphs 41 through 45 of the TAC are adopted here pursuant to Rules 10(b) and 10(c).

IV. APPLICABLE LAW GOVERNING THE DOMINION BMD SYSTEM

A. 2019 HB 316’s Key Changes to Georgia’s Election Code

18. Following enactment of HB 316, Georgia’s Election Code now requires that the “equipment used for casting and counting votes in county, state, and federal elections shall be the same in each county of this state and shall be provided to each county by the state, as determined by the Secretary of State.”

O.C.G.A. § 21-2-300(a)(1).

19. The voting system furnished by the State must be “a uniform system of electronic ballot markers and ballot scanners.” O.C.G.A. § 21-2-300(a)(3).

20. HB 316 defines “electronic ballot marker”—the official term for a BMD—to mean:

an electronic device that that does not compute or retain votes; may integrate components such as a ballot scanner, printer, touch screen monitor, audio output, and a navigational keypad; and uses electronic technology to independently and privately mark a paper ballot at the

direction of an elector, interpret ballot selections,
communicate such interpretation for elector verification,
and print an elector verifiable paper ballot.

O.C.G.A. § 21-2-2(7.1).

21. HB 316 provides that the voting system using BMDs must: “Produce a paper ballot which is marked with the elector’s choices in a format readable by the elector.” O.C.G.A. § 21-2-379.22(6) (emphasis added)

22. According to HB 316, “[a]s soon as possible” after the Secretary certifies a new BMD system to be “safe and practicable for use,” “all federal, state, and county general primaries and general elections as well as special primaries and special elections in the State of Georgia shall be conducted with the use of scanning ballots marked by electronic ballot markers and tabulated by using ballot scanners.” O.C.G.A. § 21-2-300(a)(2).

23. HB 316 provides that, following the new BMD system’s certification as “safe and practicable for use” by the Secretary of State, BMDs must be used as the voting method “for voting at the polls and for absentee ballots cast in person” in all federal, state, and county elections in Georgia. O.C.G.A. § 21-2-300(a)(2); *see also* O.C.G.A. § 21-2-383(c).

24. In such elections, the BMD system must be used “for voting at the polls and for absentee ballots cast in person, unless otherwise authorized by law.” O.C.G.A. § 21-2-300(a)(2).

25. The Election Code reinforces that in-person absentee voters must use BMDs by providing a second time that,

[I]n jurisdictions in which electronic ballot markers are used in the polling places on election day, such electronic ballot markers shall be used for casting absentee ballots in person at a registrar’s or absentee ballot clerk’s office or in accordance with Code Section 21-2-382, providing for additional sites.

O.C.G.A. § 21-2-383(c).

26. The requirement that voters use BMDs does not apply to absentee voters who do not vote in person. O.C.G.A. § 21-2-385(a). Absentee voters who do not vote in person are still able to vote on paper absentee ballots that must be returned by mail or personal delivery. *Id.*

B. Georgia’s Voting System Certification Process

27. BMD voting systems may not lawfully be sold by vendors or used in an election in Georgia until and unless the Secretary has certified that the BMD system “can be safely and accurately used by electors at primaries and elections.” O.C.G.A. § 21-2-379.24(b)–(d).

28. HB 316 provides that the State’s new uniform BMD voting system must be used for all state, federal and county elections in the State “[a]s soon as possible, once such equipment is certified by the Secretary of State as safe and practicable for use.” O.C.G.A. § 21-2-300(a)(2).

29. The Secretary has adopted a rule on Certification of Voting Systems that governs his certification of the Dominion BMD System. *See* Ga. Comp. R. & Reg. r. 590-8-1-.01 (Doc. 555, at 15-22, the “**Certification Rule**”).

1. **Qualification Testing**

30. The Certification Rule requires “qualification testing” as a prerequisite to certification of a new voting system for use in Georgia.

31. The Certification Rule provides:

Qualification tests shall be performed to evaluate the degree to which a system complies with the requirements of the *Voting Systems Standards* issued by the Election Assistance Commission (EAC).

Ga. Comp. R. & Reg. r. 590-8-1-.01(d).

32. The “Voting Systems Standards” referenced in the Certification Rule are the “Voting System Standards” (the “**2002 VSS**”), which were issued in 2002 by the Federal Election Commission (“**FEC**”) before the Help America Vote Act of 2002 transferred the FEC’s responsibility for developing voting system standards to the U.S. Election Assistance Commission (“**EAC**”).

33. The Certification Rule provides:

Whenever possible, Qualification tests shall be conducted by Independent Test Agencies (ITA) certified by the EAC. In the event that tests by an ITA are not feasible, these tests shall be conducted by a Georgia Certification Agent designated by the Secretary of State.

Ga. Comp. R. & Reg. r. 590–8–1–.01(d).

34. The Certification Rule provides that the requirement for qualification testing can be satisfied by EAC-issued Qualification Certificates that indicate the testing was performed by an EAC approved Independent Testing Agency. Ga. Comp. R. & Reg. r. 590–8–1–.01(d), (d)1.

35. If this level of testing is not available, then the Secretary may designate an agency to conduct qualification testing. Ga. Comp. R. & Reg. r. 590–8–1–.01(d)1.

36. “In either event, the Qualification tests shall comply with the specifications of the *Voting Systems Standards* published by the EAC.” Ga. Comp. R. & Reg. r. 590–8–1–.01(d)1.

37. The Dominion BMD System does not satisfy the Certification Rule’s requirements for qualification testing, and thus the system is not validly certified and is not legal to use in Georgia.

2. Certification Tests

38. The Certification Rule additionally and separately requires “certification testing”:

Certification tests shall be performed to certify that the voting system complies with the Georgia Election Code, the Rules of the Georgia State Election Board, and the Rules of the Secretary of State.

Ga. Comp. R. & Reg. r. 590–8–1–.01(d).

39. The evaluation procedure to obtain certification must be commenced after the qualification testing. *See* Ga. Comp. R. & Reg. r. 590–8–1–.01(d)2.

40. The Certification Rule requires that, “A Georgia Certification Agent designated by the Secretary of State shall conduct certification tests.” Ga. Comp. R. & Reg. r. 590–8–1–.01(d).

41. The Georgia Certification Agent is required to prepare an “Evaluation Proposal” to identify the testing to be done by the Georgia Certification Agent and any additional qualification testing that needs to be done by an EAC-approved Independent Testing Agency. Ga. Comp. R. & Reg. r. 590–8–1–.01(d)4.

42. The vendor then reviews the Evaluation Proposal and notifies the Secretary to proceed with the testing described in the Evaluation Proposal. Ga. Comp. R. & Reg. r. 590–8–1–.01(d)5.

43. Only after the vendor arranges for and successfully completes any required additional testing, then “the Georgia Certification Agent shall conduct the tests described in the Evaluation Proposal and submit a report of the findings to the Secretary of State.” Ga. Comp. R. & Reg. r. 590–8–1–.01(d)6.

44. The Secretary finally determines whether to certify the voting system for use in Georgia based on the “information in the report from the Georgia Certification Agent, and any other information in [the Secretary’s possession].” Ga. Comp. R. & Reg. r. 590–8–1–.01(d)4 & (d)7.

45. The Dominion BMD System does not satisfy the Certification Rule’s requirements for certification testing, and thus the system is not validly certified and is not legal to use in Georgia.

C. Functional Requirements for BMD Voting Systems

46. HB 316 establishes specific functional requirements for lawful BMD systems, including that BMDs and ballot scanners must at all times “[p]ermit voting in absolute secrecy so that no person can see or know any other elector’s votes, except when he or she has assisted the elector in voting, as prescribed by law.” O.C.G.A. § 21–2–379.22(5) (emphasis added); *see also* O.C.G.A. § 21–2–365(6) (same requirement to permit voting in absolute secrecy for ballot scanners

used in optical scanning voting systems); O.C.G.A. § 21-2-2(19.1) (defining optical scanning voting systems to include BMD systems that use ballot scanners).

47. These statutes reflect the Georgia Constitution’s requirement that, “Elections by the people shall be by secret ballot and shall be conducted in accordance with procedures provided by law.” Ga. Const. Art. II, § 1, ¶ 1.

48. Because of the constitutional imperative that voters must be able to verify the selections that BMDs make on their behalf, HB 316 provides that BMDs must “[p]roduce a paper ballot which is marked with the elector’s choices in a format readable by the elector.” O.C.G.A. § 21-2-379.22(6) (emphasis added).

49. HB 316 provides that, “The form and arrangement of ballots marked and printed by an electronic ballot marker shall be prescribed by the Secretary of State.” O.C.G.A. § 21-2-379.23(b).

50. The Secretary’s discretion to design the form and arrangement of ballots is constrained by the statute’s specific requirements that BMD printouts must contain information that includes the following:

- “(4) Words identifying the proposed constitutional amendments or other questions for which the elector is eligible to vote.” O.C.G.A. § 21-2-379.23(c)(4).

- “(5) The name of the candidate and, for partisan offices, indication of the candidate’s political party or political body affiliation, or the answer to the proposed constitutional amendment or other question for which the elector intends to vote.” [O.C.G.A. § 21-2-379.23\(c\)\(5\)](#).

51. HB 316 provides: “The paper ballot marked and printed by the electronic ballot marker shall constitute the official ballot and shall be used for, and govern the result in, any recount conducted pursuant to Code Section 21-2-495 and any audit conducted pursuant to Code Section 21-2-498.” [O.C.G.A. § 21-2-379.23\(d\)](#).

52. Nowhere does HB 316 contemplate that an “official ballot” might have both a human-readable part (the human readable text summary printed on the ballot card generated by the Dominion BMD System) and a non-human readable part (the QR code printed on the ballot card)—both of which purport to contain the same information, but only one of which (the human readable text portion) can be read and reviewed by the voter.

53. HR 316 is silent about what portion of the “official ballot”—the QR code or the human readable text summary—must be counted in the official count, in recounts, and in audits. *See* [O.C.G.A. § 21-2-379.23\(d\)](#).

54. The Dominion BMD System’s scanner only reads and interprets the portion of the ballot card that contains the QR code.

55. For the official count of votes—which is generated by tabulating the Cast Vote Records recorded on the precinct scanners after the close of an election—the Dominion BMD System only tabulates the information contained in the non-human-readable ballot card QR codes, not the voter-reviewable information contained in the human readable text summary.

56. For recounts conducted under O.C.G.A. § 21-2-495, the ballot printout cards are simply run through the scanners again. This means that the Dominion BMD System’s scanners—again—will only read and interpret the non-human-readable QR code, not the voter-reviewable human readable text summary.

57. By contrast, for precertification tabulation audits and risk-limiting audits conducted under O.C.G.A. § 21-2-498, the statute requires “manual inspection of random samples of the paper official ballots.”

58. Applicable audit standards are left to be determined by the State Election Board. *See* O.C.G.A. § 21-2-498(d). As of the date of this filing, the State Election Board has not promulgated any rules or procedures to implement precertification tabulation audits

59. A “manual inspection” of BMD printed ballots necessarily means that human auditors will have to examine the part of the printed ballot cards that contains the human readable text summary, not the part with the QR codes.

60. The statute’s requirement for the inspection sample to include “all types of ballots,” O.C.G.A. § 21-2-498(c)(2), means that, for in-person voters, precertification tabulation audits and risk-limiting audits will examine a different marking on a different part of the ballot than was counted for official tabulations, whereas for absentee paper ballot voters, these audits will examine the same marking on the same part of the ballot that was counted for official tabulations.

61. HB 316 does not provide for investigation of anomalies identified in precertification tabulation audits and risk-limiting audits to escalate the audit or correct the election results. The discovery of errors in the audited sample does not prevent certification of inaccurate official results or even permit a discretionary (much less automatic) manual inspection and recounting of all the ballots.

62. Nor does HB 316 contain any provision that addresses what markings on a BMD ballot—the QR code or the human readable text summary—should be counted in the event of an election contest. This omission is especially significant since an election contest is the most readily foreseeable result of an audit that produces evidence of an incorrect result.

63. In summary, the selections shown on the voter-reviewable, human-readable text summary portions of BMD ballot cards are never “counted.” Only the selections encoded by the QR code are tabulated and recounted. At most, only a sample of the human-readable text summaries on the ballot cards is ever used, and even that sample is only inspected to check the math produced by the prior tabulation of information contained in the indecipherable and unverifiable QR codes.

64. The human-readable portions of BMD ballot cards generated by the Dominion BMD System are essentially irrelevant to the actual tabulation of votes. The human readable text serves to give voters false comfort they may have verified their votes when in reality they cannot have done so. Elections in Georgia conducted using the Dominion BMD System will be decided from beginning to end by undecipherable QR codes that voters must trust and cannot verify.

65. By design, the Dominion BMD System forces Georgia voters to “trust the machine”—or, more specifically, to trust that the indecipherable QR code printed by the machine completely and correctly reflects the voter’s actual touchscreen choices. Even if the human readable text summary appears complete and correct to a voter with the time and ability to review it, the voter still must trust that the inscrutable QR code says the same thing as the summary.

66. This system is severely burdens the rights of voters, as described in Paragraphs 99–199 below, because (among other reasons) voters using the Dominion BMD System have no way of knowing what votes they are actually casting.

V. GENERAL ALLEGATIONS

A. How Voting Works on the Dominion BMD System

67. The Dominion BMD System consists of:

- the Democracy Suite 5.5-A Election Management System Version 5.5.12.1,
- EMS Adjudication Version 5.5.8.1,
- ImageCast X Prime (ICX BMD) Ballot Marking Device Version 5.5.10.30,
- ImageCast Precinct (ICP) Scanning Device Version 5.5.3-0002, and
- ImageCast Central (ICC) Scanning Device Version 5.5.3-0002.

68. The Secretary has erroneously claimed that the Dominion BMD System is a paper ballot voting system. The Dominion BMD System is actually an electronic voting system that is very similar to a DRE system, but is even less secure than DRE systems.

69. Paragraphs 70–88 describe the material steps performed by voters and officials when the Dominion BMD System is used.

70. The voter checks in and presents identification to pollworkers, who look up the voter using the ePollbook system.

71. Assuming the ePollbook confirms that the voter is in the right polling and eligible to vote, the pollworkers use the ePollbook software to encode and issue a voter access “smart” card to the voter.

72. The voter goes to an ImageCast X Prime (ICX BMD) Ballot Marking Device and inserts the voter access card into the BMD to activate it.

73. The BMD pulls up the ballot style assigned to the voter according to the voter access card and displays voting options on the touchscreen, one page after the other.

74. On each screen generated by the BMD, the voter expresses his or her electoral preferences by touching the target areas of the electronic screen that display voter’s choices.

75. The BMD interprets the voter’s physical pressure on various target areas of the touchscreen as votes. It converts the voter’s on-screen selections into temporary entries in the BMD’s memory to record the voter’s choices based on the context of what is being displayed to the voter when the screen is touched. When

the voter touches a target area, the BMD screen gives visual feedback to the voter to indicate that the voter's selection has been perceived by the BMD.

76. Once the voter has advanced through all the screens of the ballot style and is finished making selections, the BMD prints a paper record that is the voter's "ballot" and clears its memory of the selections that the voter has just made.

77. The "ballot" produced by the Dominion BMD System contains a "QR code"—a two-dimensional barcode that consists of black marks arranged in a square pattern on a white background. The "ballot" also contains a human readable text that summarizes the voter's touchscreen selections with a short, paraphrased label for each contest, followed by an indication of selection that was recorded as being made (or skipped) by the voter.

78. The following is a sample BMD ballot that Dominion provided in its RFP Response to the Secretary, showing both the QR code and a human readable text summary of the voter's choices:



([Doc. 555, at 13.](#))

79. The QR code is a machine-readable optical label that uses standardized encoding to store data efficiently. It is a type of matrix barcode first designed in 1994 for the automotive industry in Japan to track vehicles during the manufacturing process. The Dominion BMD System's QR codes contain information about the voter's choices, encoded in computer-readable form using a proprietary Dominion encoding format and may contain other information about

the voter as well. Because the encoding format is proprietary, even if the voter had a QR code reader, he or she could not decipher the information that the QR code contains and would not be able to understand it or verify whether it reflected his or her votes.

80. The human readable text portion of the ballot card generated by the BMD purports to summarize the voter's touchscreen selections by paraphrasing the affirmative selections (i.e., the voter's votes "for" electoral choices) that the BMD interpreted the voter to have either made, or skipped, on the touchscreen.

81. If a BMD is functioning properly, the vote selections that are encoded by the printed QR code should be the same as the vote selections that are described by the printed text summary, and both the QR code and the text summary should record the same selections that the voter previously made on the touchscreen prior to the ballot card being printed by the BMD.

82. Once the voter has received the ballot card printed by the BMD, he or she can (at least theoretically) review the human readable summary to check if it completely and correctly reflects the choices that the voter remembers making on the touchscreen. The voter will be unable to conduct any verification of the information encoded in the non-human readable QR code.

83. When the voter completes whatever review of the printed ballot card the voter wishes, is able, and has time to perform, the voter then takes the ballot card to the polling place ImageCast Precinct (ICP) Scanning Device and casts his or her ballot by inserting the printed ballot card into the scanner.

84. The scanner decodes the information contained in the QR code and constructs a complete record of all the voter's selections (the "**Cast Vote Record**"). The scanner saves the Cast Vote Record to two redundant removable compact flash cards along with a linked timestamp that identifies when the ballot card was cast and scanned.

85. At the end of voting, all the Cast Vote Records recorded by each polling place's scanner are transferred via removable media to the county's central tabulation center.

86. At the county tabulation center, the votes contained on all the Cast Vote Records are combined with tabulations from hand-marked paper absentee and provisional ballots to produce county vote totals in each contest, which are then transmitted to the State for the generation of combined election results by contest.

87. The ballot cards are transferred to the county's central tabulation center and retained there. In the event of a recount, the ballot card is available to

be scanned again—in which case the recount result, like the original tabulation, is based exclusively on the information contained in the QR code.

88. In the case of a pre-certification tabulation audit or a pilot risk-limiting audit, both of which require the manual inspection by humans of random samples of the ballot cards (as well as absentee paper ballots), the human readable text portions of each ballot card, rather than the QR code, is what will be examined. In other words, although the information contained in the non-human readable QR code is what gets counted in the initial tabulation and any recounts, it is the information in the human readable text summary portion of the ballot that gets manually inspected in audits of the election's results.

B. Certification and Award

89. A company called Pro V&V was engaged by the Secretary and conducted nominal “certification testing” of the selected Dominion BMD System in 2019.

90. Pro V&V was accredited as a voting system test laboratory by the EAC in 2015, but the 2015 certificate of accreditation expired on February 24, 2017.

91. On August 7, 2019, Pro V&V signed a Test Report stating that the Dominion BMD System had successfully been evaluated and certified against “the

requirements set forth for voting systems by the EAC 2005 VVSG and the State of Georgia.” (Pro V&V Test Report at 18.)

92. On August 9, 2019, the same day the Secretary awarded the BMD purchase to Dominion Voting Systems, Inc., the Secretary certified that the Dominion BMD System “has been thoroughly examined and tested and found to be in compliance with the applicable provisions of the Georgia Election Code and Rules of the Secretary of State, and as a result of this inspection ... can be safely used.” (Docs. 575, 575-2.)

C. The Dominion BMD System Is Constitutionally Defective and Not a Lawful Replacement for DRE System

93. As shown below in this supplemental complaint—and in flat contradiction to the Secretary’s certification—the Dominion BMD System cannot be safely (or lawfully) used. This is true because the system:

- does not meet Georgia’s legal requirements for a lawful voting system,
- shares the same kinds of security flaws as Georgia’s existing unconstitutional DRE voting system,
- has not been properly tested by the Secretary,
- was improperly certified and thus is illegal to use in Georgia,

- even if operated as designed, fails to produce verifiable, accountable, and auditable vote totals and election results,
- if used to conduct Georgia elections, will severely and unequally burden the constitutional rights of Georgia voters,
- if used to conduct Georgia elections, will deprive Georgia voters of their state constitutional right to a secret ballot, and
- cannot, in any event, practically be implemented within the time frame required to replace the constitutionally deficient DRE voting system, which this Court has ordered the State to discontinue using after the end of 2019. ([Doc. 579.](#))

94. On August 19, 2019, a petition was filed with the Secretary by all individual Coalition Plaintiffs and more than 2,500 Georgia voters from 127 different counties² pursuant to [O.C.G.A. § 21-2-379.24\(a\)](#), demanding that the Secretary re-examine the Dominion BMD System because of deficiencies in the initial certification examination. ([Doc. 586, at 10 \(Ex. A\).](#))

² This figure includes signatures and residences of voters added in one or more supplements to the petition after its initial filing.

95. As of the date of filing of this supplemental complaint, the Secretary has not responded to the voters' request and has set no timetable for conducting the required re-examination.

96. All public statements by the Secretary's office indicate that the Secretary has pre-judged that the required re-examination of the Dominion BMD System will not cause him to revoke his certification of the system or even slow implementation, despite the system's substantial non-compliance with voting system rules.

D. The Upcoming BMD Elections

97. In particular, the Secretary intends for Georgia to use the Dominion BMD System to conduct all federal, state, and county general primaries and general elections, as well as special primaries and special elections, that will be held in the State of Georgia beginning with (1) the pilot BMD elections for a limited number of November 5, 2019 elections and the continuing with (2) all elections from the March 24, 2020 presidential primary election onward (all of the foregoing-described elections, the "**Upcoming BMD Elections.**")

98. At each of the Upcoming BMD Elections, the State Defendants and the Fulton County Defendants intend to enforce newly enacted O.C.G.A. § 21-2-300(a)(2) and § 21-2-383(c). Those provisions require all in-person

voters—including absentee in-person voters and Election Day voters—to vote using the Dominion BMD System.

VI. REQUIRING VOTERS TO USE THE DOMINION BMD SYSTEM SEVERELY BURDENS THE RIGHTS OF GEORGIA VOTERS

A. The Dominion BMD System Forces In-Person Voters to Cast Ballots Without Being Able to Read or Verify The QR-Encoded Votes They Are Casting

99. The two types of ballot scanners certified by the Secretary as components the Dominion BMD System—

- ImageCast Precinct (ICP) Scanning Device Version 5.5.3-0002 (used in precincts), and
- ImageCast Central (ICC) Scanning Device Version 5.5.3-0002 (used for central counting of mail and provisional hand marked paper ballots).

—are programmed to read QR codes on ballot cards in the polling places and hand-marked paper ballots in the county election office.

100. The scanners interpret voter intent and create the Cast Vote Records that are used to tabulate election results.

101. Traditional hand-marked paper ballots contain colored-in oval target areas beside a human readable contest name. This target area is read by the optical scanners in the central count operation. For absentee mail-ballot voters and

provisional voters, the votes they can read and complete themselves are the votes that the scanners will count.

102. For in-person voters, only the votes encoded by the Dominion BMD System in the QR codes will be counted in the official tabulation and any recounts.

103. The information encoded by this QR codes is impossible for voters to read because the QR code is encrypted and encoded in a proprietary format that humans cannot decipher.

104. Voters are expected to review the text summary to satisfy themselves that the printed list of selections is the complete and accurate list of selections made on the touchscreen, and to report any machine malfunctions or discrepancies to poll managers. Even if a voter is able to satisfy himself or herself that the text summary actually reflects the preferences that the voter expressed when voting on the BMD touchscreens, this design still requires voters simply to trust that the non-human readable QR code matches the text summary. The voter has no way to confirm that this is true.

105. The voter's rights to cast a vote and to have that vote correctly recorded and counted entitle voters to a voting system that permit the voter to read the actual "official" votes being cast and to confirm that the "official" votes being

cast actually reflect the preferences that the voter expressed while interacting with the BMD touchscreen.

106. Voters may not legally be burdened with the requirement to conduct verification or machine accuracy testing in order to vote and have their votes counted. A voter should be permitted to simply vote without being expected or pressured to test the machine accuracy, particularly when the verification addresses a human readable text summary that is not even tabulated or recounted.

107. The design of the Dominion BMD System is inherently burdensome to voters and severely burdens voters' rights to vote and to have their votes counted.

108. The design of the Dominion BMD System also makes in-person voters less likely to cast an effective vote than absentee mail voters, who are allowed to vote on a paper ballot that the voter can mark without a computer intermediary, and with the confidence that they can see and read the vote they cast.

109. Mail ballot voters, who are allowed to cast hand-marked paper ballots, make their own ballot markings and thus do not need to perform any additional verification or accuracy testing to confirm that the marks on their paper ballot are in fact their own choices.

B. Many In-Person Voters Will Be Unable to Verify Even the Human Readable Text Portions of Their Dominion BMD Ballots

110. Because of the length and complexity of modern ballots, requiring voters to verify even a human-readable text summary of their touchscreen choices is a severe burden on the right to vote that will cause in-person voters to be less likely cast an effective vote than are mail absentee voters.

111. Many, if not most, in-person voters will lack the memory and cognitive skills to be able to verify that the printout produced by the Dominion BMD System has completely and correctly recorded their touchscreen selections.

112. This is true because of the way voting on BMDs works: When a voter makes an electoral selection by tapping a space on a BMD touchscreen, both the voter's physical act of expressing intent and the relevant context shown to the voter (i.e., the information being displayed by the BMD at that moment) are completely ephemeral. The confirmatory feedback that is displayed to the voter on screen once the voter has made a selection is also ephemeral.

113. Voters are prohibited from electronically recording for verification purposes any of the context and feedback surrounding their touchscreen choices by the Election Code itself, which forbids recording any photos or videos of BMDs in operation. *See* [O.C.G.A. § 21-2-413](#).

114. After all the voter's selections in all races on all voting screens have been completed (which in many elections takes a significant amount of time), when the BMD generates a printed paper "ballot" that contains both the QR code embedded with the voter's selections and a text summary of the voter's choices, the voter must rely exclusively upon his or her memory to review the text summary and confirm that it is complete and correct.

115. Auditing and voting system experts are in virtually unanimous agreement that in most elections, many, if not most, voters will be unable, from memory, without the benefit of any visual cues or context, to reliably, accurately, and completely verify the completeness and correctness of a paraphrased textual summary of the selections they previously made on the touchscreen over the course of potentially 5 or 10 minutes. For example, most voters are unlikely to detect if a low-profile down-ballot races or ballot question is left off the paper printout, or to notice if their votes were switched between "Yes" and "No" on a particular question.

116. Without every voter accurately verifying his or her complete ballot, BMD elections become unauditable because the ballot cards are not uniformly reliable as records of voter intent.

117. Many voters will skip trying to verify their ballots. Few voters, having already spent the time needed to mark an entire ballot while standing at a voting machine, after also standing in line waiting to vote, will choose to perform the relatively tedious and repetitive task of thoroughly reviewing the printed ballot card—particularly if they are aware that the State’s audit procedures are ineffective and that their verification efforts are pointless. The typical voter may simply assume that the QR code contains accurate and complete information, even if the printout appears to be incomplete. Many voters will just skip the verification altogether, particularly if there are lines behind the voter or other voters waiting to use the machine.

118. Requiring voters to perform a challenging, memory-based verification of a paraphrasing of their touchscreen vote selections in order to assure that the printed text summary accurately reflects the voters’ choices severely burdens the right to vote.

119. To the extent the voter’s act of verification is unnecessary to allow voters to cast an effective vote, it is a burden that lacks any justification. To the extent that verification is necessary, it is a burden that makes in-person voters less likely to cast effective votes than mail absentee voters, who are able to cast hand-

marked paper ballots without any additional step of having to confirm and verify the accuracy of a machine's translation of their electoral intent.

120. Fully accurate verification of the printed ballot content may be possible for a small minority of voters—those with high education levels, excellent memories, excellent English skills, no cognitive issues, and surplus time to spend at a voting machine studying a ballot card after already completing the ballot once. But less fortunate voters are more severely affected—especially disabled, elderly, less well-educated, non-native English-speaking, and cognitively challenged voters.

C. Ballots Cast on the Dominion BMD System Are Not Secret Ballots

121. The two types of ballot scanners certified by the Secretary as components the Dominion BMD System, *see supra* Paragraph 99, record a timestamp on the electronic record when a ballot is scanned. Of concern here is the ICP Precinct Scanner, which is the single scanner in a polling place that voters use to cast their ballots.

122. This timestamp is linked to the Cast Vote Record by the scanner.

123. Anyone who gains access to these timestamps can compare them to other information that is typically recorded about voters in a polling place—such as check in times, pollwatcher notes, and polling place video recordings—to

determine which timestamped ballot in the scanner was cast by which particular voter. The order and time of voters casting their ballots in a polling place is easily documented. It becomes relatively easy to selectively target any individual voter for exposure of their ballot simply by noting what time they cast their ballot into the scanner.

124. This determination of which Cast Vote Record belongs to which voter can be made with a nearly 100% certainty under many circumstances.

125. While Dominion claims to “anonymize” reported ballot data by suppressing the timestamps for external reports when the data is exported to public records, the original electronic records containing the timestamp and chronological order of ballots cast can continue to be accessed by insiders and successful hackers.

126. The timestamp design feature of the scanner components of the Dominion BMD System arbitrarily deprives in-person voters of their substantive Georgia constitutional and statutory rights to vote in absolute secrecy, which in turn violates federal constitutional guarantees of procedural due process.

127. The inability of in-person voters to enjoy their state rights to cast an absolutely secret ballot exposes these voters to the potential for identification,

retaliation, and accountability based upon their electoral choices, which also burdens the fundamental right to vote.

128. As voters learn of this threat to their privacy in voting, it will predictably deter voting by voters who may have reason to fear coercion or retaliation if their vote preferences are not absolutely secret. The existence of this vulnerability also creates a tempting target for hackers who trade in highly sensitive personal data.

129. Because mail ballot voters are allowed to return hand-marked paper ballots by personal delivery or by mail, rather than casting them into Dominion scanners, they are free from these deprivations and burdens—disparate treatment that, in turn, offends the right of in-person voters to equal protection.

D. The Dominion BMD System Does Not Create An Independent, Accountable Record of Voters' Choices

130. The Dominion BMD System does not create an independent, accountable record of voter choices that satisfies “democracy’s critical need for transparent, fair, accurate, and verifiable election processes that guarantee each citizen’s fundamental right to cast an accountable vote.” ([Doc. 309, at 46, *Curling*, 334 F. Supp. 3d 1303, 1328](#) (Sep. 17, 2018).)

131. The inventor of risk limiting audits and the nation's foremost expert on post-election auditing, Professor Philip Stark, concludes that audits of BMD-generated results are "meaningless."

132. Twenty-four leading voting systems experts, cybersecurity experts, and election quality leaders echoed this concern in a letter to the SAFE Commission, noting that a valid BMD audit is "impossible."

133. Shortly after the passage of HB 316, Dr. Philip Stark, Dr. Richard DeMillo of Georgia Tech, and Dr. Andrew Appel of Princeton University published a paper called, "Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters," which explains that the security model of BMDs is broken.³

134. Professor of Computer Science Dr. Wenke Lee, the Director of the Georgia Tech Information Security Center and the only cybersecurity expert on the SAFE Commission, voted against the SAFE Commission's recommendation to deploy BMDs for this reason.

135. Even the National Academy of Sciences has warned: "Unless a voter takes notes while voting, BMDs that print only selections with abbreviated

³ Andrew Appel, Richard DeMillo & Philip Stark, "Ballot-Marking Devices (BMDs) Cannot Assure the Will of the Voters" (April 21, 2019), *available at*, SSRN: <https://ssrn.com/abstract=3375755> (last visited Sep. 6, 2019)..

names/descriptions of the contests are virtually unusable for verifying voter intent.”⁴

136. BMDs, like DREs, allow a computer to author the artifact that constitutes the voter’s “official” vote selections. Because the Dominion BMD System deprives voters of any ability to read and verify the undecipherable QR code that contains the voter’s choices, the Dominion BMD System is a quintessential “black box”—the opposite of an accountable voting system.

E. The Design of the Dominion BMD System Deprives Officials of Any Way to Confirm Equipment Malfunctions

137. Because ballot cards are only printed after voters finish voting on their touchscreens, the Dominion BMD System exposes in-person voters to a higher likelihood than other voters that their votes will not be effective when and if a BMD in their polling place malfunctions.

138. BMDs interpose a delay between a voter’s ephemeral indication of intent and the voter’s review (on paper) of what was purportedly recorded. If the voter detects an error and reports a malfunctioning machine to a pollworker, there is no way for the worker to tell if the machine actually malfunctioned or if the

⁴ National Academy of Sciences, *Securing the Vote: Protecting American Democracy* (2018), at 79 (available at <https://www.nap.edu/catalog/25120/securing-the-vote-protecting-american-democracy>) (last visited Sep. 5, 2019).

voter is simply mistaken, since the paper printout will be the only potential evidence of the voter's touchscreen selections. Apart from the printout, no other evidence of the voter's ephemeral expression of intent exists that can be used to test the accuracy of the printout.

139. Many voters will be reluctant even to show pollworkers their ballot card to try to demonstrate the inaccuracies, because doing so will reveal their private ballot choices.

140. Since real-time polling place testing of BMDs for possible misconfiguration or hacking is impractical, pollworkers will be forced either to keep the potentially defective machine in service or to take voters at their word and take machines out of service, actions which will cause longer lines and delays.

141. If BMDs that voters report are malfunctioning are routinely taken out of service, there is a real risk of fabricated claims that BMDs are malfunctioning, claims that could bring a precinct to a stand-still and disenfranchise voters.

F. Audits Examine Different Expressions of Voter Intent Than Official Counts—But Only for In-Person Voters

142. HB 316 provides for precertification tabulation audits that are to be conducted by manual inspection of a random sample of official ballots.

143. Because the official ballots for in-person voters are BMD-printed ballot cards, the humans conducting the required “manual inspection” can

necessarily only examine the human readable text summary of any in-person ballot in the sample. In other words, the humans conducting the manual inspection cannot review the undecipherable QR code (which was counted in the official tabulation and any recount), but can only review the human-readable portion of the ballot.

144. By contrast, human auditors who conduct manual inspections of the hand-marked paper ballots cast by absentee voters will be able to examine the same portion of the absentee ballot that counted for the official tabulations and recounts.

145. In other words, the “official” BMD votes of in-person voters will be excluded from any chance of being included in any precertification audits, unlike the official votes of absentee paper-ballot voters. Since QR codes cannot be audited manually, they will not be audited at all in a manual inspection. The Dominion BMD System deprives in-person voters of the right to have their official votes audited that other voters enjoy under Georgia’s recount statute for BMD voting systems.

146. Apart from the unequal treatment of voters, the audits provided for by HB 316 are, in any event, ineffective and of limited value for confirming that election results actually reflect the intent of the electorate. Since the human-

readable text portion of the BMD ballots is unlikely to have been completely and correctly verified by all individual voters, manual inspection of ballot cards fails to assure overall integrity of the election. At most, “audits” of a BMD election can only confirm the arithmetical accuracy of tabulations—they cannot verify the fidelity of machine-printed ballot cards to voters’ actual touchscreen selections.

147. Audits of records that themselves are unverifiable by most individual voters may do more harm than good by leading the public to believe that election results have been “audited” in some meaningful way when, in fact, the opposite is true.

G. The Dominion BMD System Is Illegal To Use Because the Secretary’s Improper Certification of the System Is Void

148. The Secretary’s purported certification that the Dominion BMD System “has been thoroughly examined and tested and found to be in compliance with the applicable provisions of the Georgia Election Code and Rules of the Secretary of State, and as a result of this inspection ... can be safely used,” (Docs. 575, 575-2), is objectively false and legally void.

1. Qualification Testing Has Not Been Performed As Required By the Certification Rule

149. Georgia law requires state qualification testing for the Dominion BMD System unless the EAC has issued Qualification Certificates that certify the

system to comply with the *Voting System Standards*—i.e., the 2002 VSS. *See* Ga. Comp. R. & Reg. r. 590–8–1–.01(d).

150. The 2002 VSS provides a different set of standards than the guidelines stated by the 2005 VVSG (or by the 2015 VVSG).

151. Because the EAC has only certified the Dominion BMD System to comply with the guidelines set out in the 2005 VVSG, not the standards set out in the 2002 VSS, state qualification testing of the Dominion BMD System by the Secretary is required under the Certification Rule.

152. Pro V&V was accredited as a voting system test laboratory by the EAC in 2015, but the 2015 certificate of accreditation expired on February 24, 2017. The expiration of its EAC accreditation means that the “certification testing” performed by Pro V&V on the Dominion BMD System for the Secretary could not have been qualification testing.

153. In addition, Pro V&V in its own report described the testing that it performed as “certification testing,” not “qualification” testing.

154. Because Pro V&V did not perform qualification testing and because the Secretary has not designated a Georgia Certification Agent or engaged any other testing agency to conduct the required qualification testing, the Certification

Rule's requirement for qualification testing of the Dominion BMD System is not satisfied.

2. Certification Testing Has Not Been Performed As Required By the Certification Rule

155. The Dominion BMD System also does not satisfy the Certification Rule's requirements for certification testing.

156. The Certification Rule requires that, "A Georgia Certification Agent designated by the Secretary of State shall conduct certification tests." Comp. R. & Reg. r. 590-8-1-.01(d).

157. Pro V&V was never designated by the Secretary to be a Georgia Certification Agent.

158. Even if Pro V&V is construed to be acting as a Georgia Certification Agent without being designated as such in compliance with the Certification Rule, the certification testing that Pro V&V performed still does not meet the requirements for certification testing because Pro V&V's testing did not examine whether the Dominion BMD System "complies with the Georgia Election Code, the Rules of the Georgia State Election Board, and the Rules of the Secretary of State," Ga. Comp. R. & Reg. r. 590-8-1-.01(d).

159. For example, the testing did not include tests of whether the operation of the system would permit valid auditing of the results—a fundamental test that the system clearly would have failed.

160. The report prepared by Pro V&V shows that Pro V&V only examined the an incomplete set of functional operations of the Dominion BMD System and did not perform any of the kinds of “certification tests” that are required to “certify that the voting system complies with the Georgia Election Code, the Rules of the Georgia State Election Board, and the Rules of the Secretary of State.” Ga. Comp. R. & Reg. r. 590–8–1–.01(d).

3. The Secretary’s Certification of the Dominion BMD System Is Void and the System Is Not Legal to Use in Georgia

161. Because the Dominion BMD System was not properly tested according to the Certification Rule, the Secretary’s nominal certification that the Dominion BMD System “has been thoroughly examined and tested and found to be in compliance with the applicable provisions of the Georgia Election Code and Rules of the Secretary of State, and as a result of this inspection, ... can be safely used,” (Doc. nos. 575, 575-2), is objectively false—and thus is legally void.

162. In the absence of a valid certification that the Dominion BMD System “can be safely and accurately used by electors at primaries and elections,” the

Dominion BMD System may not lawfully be used to conduct a Georgia election.

O.C.G.A. § 21-2-379.24(b)–(d).

163. Requiring Georgia’s in-person voters to exercise their fundamental right to vote on a voting system that is illegal under state law violates the federal constitutional right to due process.

H. The State’s Electronic Security Practices Render the BMD System Even More Vulnerable to Hacking and Malicious Manipulation Than The DRE System Was

164. HB 316 provides for (ineffective) precertification audits of BMD election results, but the Dominion BMD System—like Georgia’s unconstitutional DRE voting system—suffers from security risks that cannot be mitigated by precertification audits.

165. The mere fact that the Dominion BMD System produces a paper printout with a human readable text summary that can be manually inspected in a precertification audit does not make it anything close to equivalent in security to a voting system that uses hand-marked paper ballots in conjunction with proper chain of custody practices and robust audits.

1. QR Codes Create Inherently High-Risk Applications

166. QR codes are a form of computer “barcode.”

167. Cybersecurity experts warn that use of a “barcode” application for voting systems is inherently dangerous.

168. One of the nation’s foremost voting system cybersecurity experts, Harri Hursti, testified to the U.S. Presidential Commission on Election Integrity on September 12, 2017:

When you read barcode, the problem is that barcode readers are usually a keyboard. So anything you can do with a keyboard you can do with a barcode. Barcode readers also have a bad habit of reading more standards than the standard you are using, and some of these barcodes can have a thousand, two thousand characters, and they can emulate the keyboard very effectively, so they can make those keyboard signs which are not-printable.

Again, when you're reading a barcode, you can get an injection code into the system with that, and this is one thing which we found in the voting machine hacking village is how you can inject in some of these machines a SQL inject from the barcode.

So these capabilities are very dangerous and we have to be very careful with the technology...”⁵

169. Secretary Raffensperger ignored such expert warning when he selected the Dominion BMD System and rushed to certify, without the benefit of

⁵ Testimony of Harri Hursti U.S. Presidential Commission on Election Integrity (Sep. 12, 2017), at 110 of 124, *available at* <https://www.whitehouse.gov/sites/whitehouse.gov/files/images/Unedited%20Transcript%20for%20September%2012%2C%202017%20Meeting%20in%20New%20Hampshire.pdf> (last visited Sep. 5, 2019).

having done the required qualification and certification testing, that the system “has been thoroughly examined and tested and found to be in compliance with the applicable provisions of the Georgia Election Code and Rules of the Secretary of State, and as a result of this inspection, ... can be safely used.” (Doc. nos. 575, 575-2.)

170. The Dominion BMD System has not, in fact, been properly tested as required by the State Election Board’s own Certification Rule.

171. The Certification Rule mandates security qualification and certification testing, both of which should address the vulnerability of the Dominion BMD System’s vulnerabilities to injection of malicious code via barcodes.

172. But there is no evidence of any such vulnerability testing ever having been conducted, either by the EAC, by a Georgia Certification Agent, by the Secretary’s own staff, or by any other party prior to the Secretary’s rubber-stamp certification.

173. In August 2019, at DEFCON 27, a trade convention of white-hat hackers, several components of the Dominion BMD System were examined by participants and attendees. During the course of one weekend, the DEFCON “Voting Village” participants identified twenty vulnerabilities, including flaws that

specifically affect the scanners used by the Dominion BMD System—one of which even permits the redirection of votes from one candidate to another.

174. None of the “certification testing” of the Dominion BMD System conducted by Pro V&V addresses the vulnerabilities identified at the DEFCON 27 conference.

175. The Secretary’s intended use of the Dominion BMD System—an effectively untested voting system that is known to have inherent, publicly documented vulnerabilities—will place a severe burden on the fundamental right to vote of all in-person voters at the Upcoming BMD Elections and will cause those in-person voters to be treated differently than absentee voters who do not vote in person and thus are not required to use BMDs.

2. The Dominion BMD System Will Inevitably Be Exposed to Compromised Components of the DRE System That Have Still Never Been Examined for, Much Less Cleansed of, Malware

176. There is a risk that malware-infected components of the compromised and unconstitutional DRE system can be transmitted to the new Dominion BMD System if the two systems interface in way—meaning if direct or indirect physical and networked interaction occurs between any piece(s) of the old system and any piece(s) of the new system at any point in time, including by shared interfacing with intermediary equipment.

177. The State Defendants have denied that any data from the existing GEMS server and database will be imported for use with the new Dominion BMD System. ([Doc. 556.](#)) This is factually incorrect: The Dominion BMD System will be exposed at least indirectly to compromised components of the old system as the result of each system’s separate interfacing with the Secretary’s IT infrastructure over time. Accordingly, the new Dominion BMD System is susceptible to infection by malware from any part of the Secretary’s current infrastructure.

178. The Secretary’s current IT infrastructure is compromised because of the history of security breaches already documented and proven in this litigation. The following relevant allegations relating to such security compromises are adopted and restated here pursuant to Rules 10(b) and 10(c):

- Paragraphs 93–108 of the TAC ([Doc. 226, at 38–42.](#))
- Paragraphs 109–124 of the TAC ([Doc. 226, at 42–47.](#))
- Paragraphs 27–30 of the Curling Plaintiffs’ proposed Third Amended Complaint (the “**proposed Curling TAC**”) ([Doc. 581-2, at 21–22.](#))
- Paragraphs 31–33 of the proposed Curling TAC ([Doc. 581-2, at 22.](#))
- Paragraphs 45–61 of the proposed Curling TAC (Doc 581-2, at 26–30.)

- Paragraphs 62–69 of the proposed Curling TAC (Doc 581-2, at 30–32.)

Despite these security lapses, the DRE system’s components have never been examined for, much less cleansed of, any malware. The State has taken no steps to correct or remedy the past exposure of its systems to hackers and adversaries.

179. In addition, in November 2018, erroneous results were officially reported in a small number of counties as a result of apparently defective electronic files.

180. Also, in 2019, the GEMS database contractors, who were working from unsecured facilities at their homes to build ballots for the State’s current, unconstitutional DRE voting system, transmitted sensitive database configuration files to CES (within the Secretary of State’s office) over the Internet, in contrast with Michael Barnes’s courtroom testimony, putting the CES election data servers at risk.

181. The DRE voting system and its components, including existing files, data sets, and auxiliary programs, can pass malware to the “new” servers and working files of the Dominion BMD System. As legacy GEMS files are converted or transferred to work with the new Dominion BMD System, they will carry with

them undetected malware or erroneous coding that will compromise the new system.

3. The State Has Still Not Improved Its Computer Security Practices, So New Exposures to Hacking and Malicious Manipulation Are All But Certain to Occur

182. The State has made no effort to address numerous system failures and irregularities that have marred the DRE system and rendered it insecure and unsafe to use in Georgia elections.

183. Even if the compromised components of the old system were not highly likely to compromise the new Dominion BMD System, the State's ongoing, systemically deficient security practices render the Dominion BMD System just as vulnerable and exposed to hacking and malicious manipulation as the DRE system.

184. Even if the midst of this litigation over the unconstitutionality of the DRE voting system, the Secretary still has not improved the computer security practices that he requires his staff, vendors, and contractors to observe.

185. Georgia law requires that, "All electronic ballot markers and related equipment, when not in use, shall be properly stored and secured under conditions as shall be specified by the Secretary of State." [O.C.G.A. § 21-2-379.26\(a\)](#). This requirement of state law continues to be violated by the unchanged security practices of the Secretary and his staff, vendors, and contractors.

186. Even after the adoption of the Dominion BMD System, the Secretary's ongoing deficient security practices will continue to impose a severe burden on the fundamental right to vote and effectively deprive in-person voters of equal protection and due process.

I. Implementation of the BMD System in Time to Conduct the Upcoming BMD Elections Is Impractical, Exposing Georgia Voters to Electoral Disaster

187. Successful implementation of the Dominion BMD System before the Upcoming BMD Elections is a practical impossibility.

1. The Scale of Georgia's Implementation Task Is Unprecedented

188. Georgia's installation of the Dominion BMD System will be the largest and most complex voting system conversion ever attempted in U.S. history.

189. The implementation will require the programming and installation of a new master software election management system and over 75,000 new computer-driven devices, including ballot printers and new electronic pollbooks and the successful integration of these many devices with Georgia's current, defective voter registration system. No state has ever attempted a simultaneous statewide conversion on such a scale. In addition, this conversion is being attempted during a presidential election cycle, which places additional demands and pressures upon the administration of the election.

190. Accomplishing this monumental task in time to use the Dominion BMD System in a constitutional manner in the Upcoming BMD Elections requires training, manpower, technical skills, and financial resources that are simply not available to the state and county officials who are collectively charged with the responsibility.

191. To attempt to accomplish this conversion in time for the presidential election cycle, the State will likely engage Dominion to program the election, install and test components, and provide significant hands-on operations in the field. The foreseeable involvement of the vendor in administering elections in this manner entails massive issues of conflicts of interests and will inevitably dilute the State's control over its own elections.

192. The foreseeable effects of a fully or partially failed voting system implementation will be catastrophic. A failed implementation will destroy voters' trust in the election system, will depress voter turnout by dissuading marginally motivated voters from suffering the burdens and inconveniences of untested and ad hoc remedial procedures, and will do severe and irreparable damage to Georgia's democracy by casting into question the integrity of the outcomes in all affected Upcoming BMD Elections.

193. The preliminary injunction order issued by this Court on August 15, 2019, requires the Defendants to prepare for their own potential failure to timely implement the use of the BMD equipment by developing a contingency plan to use hand-marked paper ballots in coordination with the Dominion BMD System's scanner components. (Doc. 579, at 148, ¶ (2).)

194. The Dominion BMD System's scanners, however, record timestamps permitting the voters' electronic ballot record to be connected to the polling place voter based on the time of voting.⁶ This threat can be mitigated and the integrity of the optical scanner tabulation can be ensured if the State's contingency plan either 1) requires Dominion to disable the timestamping capability, or 2) uses the State's existing AccuVote optical scanners and GEMS. Both of these alternatives would require conducting robust precertification audits of the hand-marked paper ballots.

195. Although the Court was clear that the purpose of the pilot ordered using hand-marked paper ballots in November 2019, was to help create a backstop in the event of an implementation delay or failure for the Dominion BMD System, the implementation plan for that pilot will be grossly insufficient to serve the intended purpose. The pilot is being implemented in just four small towns, in just

⁶ Coalition Plaintiffs warned State Defendants of this flaw in their March 24, 2019 Demand letter. (Doc 351, at 28, ¶ 4.)

one county, for one election day. The pilot should establish and document contingency processes and procedures, expand the new voting system infrastructure for ballot scanning, and permit multiple election directors to gain know-how with hand-marked paper ballots, which could well be required in 2020. The pilot was intended to provide practical experience to create a realistic, practical contingency plan. Given the implementation risk, and this immediate challenge to the implementation of the Dominion BMD system, the State should be required to initiate multiple pilot sites for hand-marked paper ballot elections utilizing the certified Diebold AccuVote scanners and Dominion ImageCast Scanners if the Dominion BMD System can be legally and satisfactorily certified (which would include the disabling of timestamps that violate Georgia's secret ballot protections.)

2. Implementation Will Inevitably Be Delayed By the State's Required Re-Examination of the Dominion BMD System

196. The citizen petition signed by the Member Plaintiffs for examination of the Dominion BMD System has made the Secretary aware of the clear deficiencies of his certification in detail, but the Secretary has thus far failed to respond to the petition either by curing those deficiencies or by rebutting them.

197. Because the Secretary did not perform qualification or appropriate certification testing, it is highly likely that his planned implementation of the

Dominion BMD System will not be possible on the timetable that is required to permit the BMD system to replace Georgia's current unconstitutional DRE system.

198. When the Secretary fails to implement the Dominion BMD System in time, Georgia voters will suffer severe burdens to their fundamental right to vote as a result of the electoral catastrophe that may ensue due to foreseeable voter and pollworker confusion with new and emergency procedures, long lines to vote, and inconsistent local implementations of election processes.

199. Because these harms are likely to occur if the Secretary persists in his commitment to an unworkable timetable for implementing the Dominion BMD System, the use of the system should simply be enjoined so that the coming months may be better spent transitioning to a practically workable—and constitutional—voting system.

VII. STANDING

200. Defendants' intended enforcement of O.C.G.A. § 21-2-300(a)(2) and O.C.G.A. § 21-2-383(c) in the Upcoming BMD Elections threatens the Member Plaintiffs, other individual members of Coalition, and Coalition itself, with imminent injuries that confer standing on each of the Coalition Plaintiffs to bring each of the claims for prospective injunctive relief stated by this supplemental complaint.

A. Standing of the Member Plaintiffs

201. Each of the Member Plaintiffs has individual standing to bring each of the claims stated by this supplemental complaint because each intends to vote in each of the Upcoming BMD Elections in his or her respective county.

1. Imminent Threat of Injury-in-Fact

202. Individual Coalition Member Plaintiffs LAURA DIGGES, WILLIAM DIGGES III, RICARDO DAVIS, and MEGAN MISSETT will suffer an invasion of a number of legally protected interests, resulting in “concrete and particularized” injuries, if Defendants enforce O.C.G.A. § 21-2-300(a)(2) and O.C.G.A. § 21-2-383(c), requiring all polling-place voters to use the Dominion BMD System.

203. Specifically, for example, voters who vote using BMDs will be required:

- to cast a ballot that is individually traceable and not a secret ballot,
- to cast a ballot that cannot be read or verified by the voter and may not reflect the voter’s preferences, and
- to suffer a greater risk of casting a less effective vote than other similar situated voters who vote by mail.

204. Voters who avoid BMDs by choosing to vote by mail, on the other hand,

- will incur postage and transportation costs and will suffer inconveniences as a result of casting mail ballots,
- will be deprived of their ability to vote in their neighborhood polling places on election day,
- will be deprived of the ability to cast a fully informed vote by virtue of having to cast their votes earlier than other, similarly situated voters who may cast their votes on election day using BMDs;
- will incur the risk of their ballot being erroneously rejected without timely notice for cure.

205. These anticipated injuries satisfy the requirement of “immediacy” because they will occur within a fixed period of time in the future.

206. Suffering at least some of the anticipated injuries will be a certainty if the Coalition Plaintiffs vote in the Upcoming BMD Elections, whether by BMD or by mail ballot. No independent event—other than the act of voting itself—is needed to bring about some or all of the anticipated injuries to Coalition Plaintiffs.

2. Causation

207. The anticipated injuries to the Member Plaintiffs will be caused by the Defendants' enforcement of O.C.G.A. § 21-2-300(a)(2) and O.C.G.A. § 21-2-383(c), requiring all polling-place voters to use the Dominion BMD System.

3. Redressability

208. An injunction against the Defendants' enforcement of O.C.G.A. § 21-2-300(a)(2) and O.C.G.A. § 21-2-383(c) will redress the anticipated injuries by doing away with the requirement for all in-person voters to cast their ballots using the Dominion BMD System.

B. Standing of Coalition

209. Coalition has associational standing and organizational standing to bring each of the claims stated by this supplemental complaint.

1. Associational standing

210. The individual Members Plaintiffs LAURA DIGGES, WILLIAM DIGGES III, RICARDO DAVIS, and MEGAN MISSETT, and other individuals, are members of Coalition. By virtue of these members, Coalition has associational standing.

a) Members have standing to sue in their own right

211. The Member Plaintiffs and other individual members of Coalition are registered Georgia electors who intend to vote in their counties of residence in each of the Upcoming BMD Elections.

212. These individuals all face a probability of harm in the near and definite future as a result of the Defendants' anticipated enforcement of O.C.G.A. § 21-2-300(a)(2) and O.C.G.A. § 21-2-383(c).

213. Each of the Member Plaintiffs and other members of Coalition who are registered Georgia electors thus have individual standing in their own right to bring each of the claims for prospective injunctive relief that are stated by this supplemental complaint.

b) Interests at stake are germane to organization's purpose

214. The interests at stake in the claims raised by this supplemental complaint are germane to Coalition's purpose of preserving and advancing the constitutional liberties and individual rights of citizens, with an emphasis on preserving and protecting the rights of its members that are exercised through public elections.

c) Neither claim nor relief requires participation of individual members

215. The claims stated by this supplemental complaint seek prospective injunctive relief so individual participation of Coalition's is not necessary.

2. Organizational standing

216. Coalition also has standing on its own because it will suffer injury to its organizational interests as a result of Defendants' anticipated enforcement of O.C.G.A. § 21-2-300(a)(2) and O.C.G.A. § 21-2-383(c).

217. The allegations stated by Paragraphs 140 through 144 of the TAC are adopted here pursuant to Rules 10(b) and 10(c).

a) Injury-in-Fact

218. Defendants' enforcement of O.C.G.A. § 21-2-300(a)(2) and O.C.G.A. § 21-2-383(c), requiring all polling-place voters to use the Dominion BMD System, will force Coalition to divert personnel, time, and resources to educating its members and the voting public about how to protect their rights to cast a secret ballot and an equally effective vote in the Upcoming BMD Elections; and will impair Coalition's ability to engage in the organization's other projects by forcing it to divert resources to counteract the Defendants' illegal acts.

b) Causation

219. These anticipated injuries to Coalition will be caused by the Defendants' enforcement of O.C.G.A. § 21-2-300(a)(2) and O.C.G.A. § 21-2-383(c), requiring all polling-place voters to use the Dominion BMD System.

c) Redressability

220. An injunction against the Defendants' enforcement of O.C.G.A. § 21-2-300(a)(2) and O.C.G.A. § 21-2-383(c) will redress the anticipated injuries by doing away with the requirement for all in-person voters to cast their ballots using the Dominion BMD System.

VIII. CLAIMS

COUNT I: FUNDAMENTAL RIGHT TO VOTE

42 U.S.C. § 1983

**Claim for Relief from Threatened Unjustified and Untailored Infringements
of the Fundamental Right to Vote
In Violation of the First and Fourteenth Amendments**

***(Seeking Prospective Injunctive Relief
Against All Defendants in Official Capacities)***

221. The Coalition Plaintiffs incorporate and reallege each of the foregoing Paragraphs 1-220.

222. Defendants Raffensperger, the State Board Members, and the Fulton Board Members intend to employ the Dominion BMD System in the Upcoming

BMD Elections and to require in-person voters to cast their ballots using the Dominion BMD System.

223. Defendants' threatened conduct will severely burden Coalition Plaintiffs' fundamental right to vote as described in Paragraphs 99–199 above, including in the following ways:

- In-person voters will be unable to verify that their votes have been properly recorded in the QR code produced by the BMDs and used to tabulate the vote;
- In-person voters will be deprived of the benefit of having their official votes examined in precertification tabulation and risk-limiting audits because the QR codes on their official ballots are incapable of manual inspection;
- Traceability of ballot cards due to scanner timestamps will expose in-person voters to coercion and retaliation, which burdens them in freely voting their conscience; and
- All voters, including in-person and absentee mail voters, will be deprived of the right to participate in a trustworthy and verifiable election process that safely, accurately, and reliably records and

counts all votes cast and that produces a reliable election result capable of being verified as true in a recount or election contest.

224. Defendants' threatened imposition of these burdens and deprivations is neither justified by any legitimate governmental interest nor properly tailored to serve such an interest.

225. Defendants' threatened conduct will violate the fundamental right to vote protected by the First and Fourteenth Amendments to the United States Constitution.

226. In addition, Defendants' threatened conduct will violate the unconstitutional-conditions doctrine by requiring voters to suffer these severe burdens and infringements upon their constitutional right to vote as a condition of being able to enjoy the benefits and conveniences of casting their ballots in person at the polls.

227. Defendants will commit all the foregoing violations while acting under color of state law.

228. If an injunction does not issue against Defendants' intended conduct, Coalition Plaintiffs' fundamental right to vote will be violated, and the Coalition Plaintiffs will suffer irreparable injuries for which there is no adequate legal remedy.

COUNT II: EQUAL PROTECTION

42 U.S.C. § 1983

Claim for Relief from Threatened Violations of the Fourteenth Amendment's Guarantee of Equal Protection

(Seeking Prospective Injunctive Relief Against All Defendants in Official Capacities)

229. The Coalition Plaintiffs incorporate and reallege each of the foregoing Paragraphs 1–220.

230. Defendants Raffensperger, the State Board Members, and the Fulton Board Members intend to employ the Dominion BMD System in the Upcoming BMD Elections and to require in-person voters to cast their ballots using the Dominion BMD System.

231. Defendants' threatened conduct is fundamentally unfair because it will arbitrarily treat some voters, including the Member Plaintiffs and other members of Coalition, differently than other, similarly situated voters in the same elections, including at least in the following ways:

- Voters who cast their votes on the Dominion BMD System will be subjected to burdens on their federal constitutional rights as described in Paragraphs 99–199 above.

- Voters who cast their votes on the Dominion BMD System will be deprived of state rights to have their votes audited in state-law manual precertification tabulation and risk-limiting “audits”.
- Voters who cast their votes on the Dominion BMD System will be differentially deprived of underlying substantive state statutory and constitutional rights to vote by secret ballot.
- Voters who are similarly situated in all respects but who instead cast their votes on mailed paper ballots in the same election will be treated differently and will suffer none of the foregoing burdens, risks, and harms, including the inability to read and verify the votes they cast.

232. Defendants’ threatened conduct, which will impose the foregoing kinds of unequal treatment, will severely burden and infringe the Coalition Plaintiffs’ exercise of the fundamental right to vote, federal constitutional rights to freedom of speech and association, and Georgia constitutional right to vote by secret ballot.

233. Defendants’ threatened conduct is neither justified by a legitimate governmental interest nor properly tailored to serve such an interest.

234. Defendants’ threatened conduct will violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

235. In addition, Defendants' threatened conduct will violate the unconstitutional-conditions doctrine by requiring voters to suffer deprivation of the constitutional right to equal protection as a condition of being able to enjoy the benefits and conveniences of casting their ballots in person at the polls.

236. Defendants will commit all the foregoing violations while acting under color of state law.

237. If an injunction does not issue against Defendants' intended conduct, Coalition Plaintiffs' constitutional right to equal protection will be violated, and the Coalition Plaintiffs will suffer irreparable injuries for which there is no adequate legal remedy.

COUNT III: DUE PROCESS

42 U.S.C. § 1983

Claim for Relief from Threatened Violations of the Fourteenth Amendment's Guarantee of (Procedural) Due Process

(Seeking Prospective Injunctive Relief Against All Defendants in Official Capacities)

238. The Coalition Plaintiffs incorporate and reallege each of the foregoing Paragraphs 1–220.

239. Defendants Raffensperger, the State Board Members, and the Fulton Board Members intend to employ the Dominion BMD System in the Upcoming

BMD Elections and to require in-person voters to cast their ballots using the Dominion BMD System.

240. Defendants' threatened conduct is fundamentally unfair because it will severely restrict and/or arbitrarily and capriciously deprive the Coalition Plaintiffs' without proper notice of at least the following state-created liberty and property interests:

- The right of voters under Georgia statutes to have their official votes counted in an initial count.
- The right of voters under Georgia statutes to have their initial votes recounted in a recount or examined in an audit.
- The right of voters under Georgia statutes to cast their votes using a voting system that has been properly certified as safe for use.
- The right of voters under Georgia statutes to cast their votes on a voting system that is functionally compliant with Georgia law.
- The state statutory and state constitutional rights of voters to vote by secret ballot.

241. Defendants' threatened conduct is neither justified by a legitimate governmental interest nor properly tailored to serve such an interest.

242. Defendants' threatened conduct will violate the procedural requirements of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

243. In addition, Defendants' threatened conduct will violate the unconstitutional-conditions doctrine by requiring voters to suffer deprivation of the constitutional right to procedural due process as a condition of being able to enjoy the benefits and conveniences of casting their ballots in person at the polls.

244. Defendants will commit all the foregoing violations while acting under color of state law.

245. If an injunction does not issue against Defendants' intended conduct, Coalition Plaintiffs' constitutional right to equal protection will be violated, and the Coalition Plaintiffs will suffer irreparable injuries for which there is no adequate legal remedy.

IX. PRAYER FOR RELIEF

WHEREFORE, the Coalitions Plaintiffs respectfully request that this Court:

A. Enter a judgment finding and declaring it unconstitutional for any public election in Georgia to be conducted using the Dominion BMD System.

B. Enter a preliminary and permanent injunction prohibiting Defendants Raffensperger, the State Board Members, and the Fulton Board Members from

employing the Dominion BMD System to conduct any public election in Georgia, and enjoining the Defendants to employ a properly certified voting system using hand marked paper ballots as the standard method of voting, followed by statistically valid post-election, precertification audits.

C. Enter a preliminary and permanent injunction prohibiting Defendants from enforcing either O.C.G.A. § 21-2-300(a)(2) (2019), O.C.G.A. § 21-2-383(c) (2019), or any other law or regulation that requires Georgia voters to vote using the Dominion BMD System

D. Order that Defendants shall take all necessary action to ensure that there is no information recorded by any touchscreen machine or scanner (including a DRE electronic ballot, the encrypted ballot card of the BMD, and any other similar device), that, alone or in combination with other records or information, may be used to identify the individual who cast that ballot.

E. For all federal, state, and county elections conducted in Georgia using the Dominion BMD System, beginning with the November 2019 BMD pilot elections, order pre-certification testing of (1) the QR-code generated tabulations against the human-readable ballot selections on the ballot cards and (2) the fidelity of the unencrypted bar codes with the human readable ballots.

F. For the Court-ordered pilot election in November 2019 using hand-marked paper ballot, order the expansion of the pilot election to include at least ten counties in at least five different geographic areas of the State, using either the existing certified AccuVote optical scanners, or Dominion scanners if they can be properly certified. In addition, hand-marked paper-ballot pilot elections should also be held in any December runoffs of the November 2019 pilot elections.

G. For all federal, state, and county elections conducted in Georgia using the DRE voting system until the DRE voting machines are fully retired, order pre-certification audits of the computer-generated tabulations of optically scanned absentee mail ballots and tests of accuracy in recording the DRE output.

H. Beginning immediately, for all federal, state, and county elections conducted in Georgia using hand-marked paper ballots tabulated using optical scanners, including pilot elections, order pre-certification audits of election results, focusing on contested candidate races and ballot questions, with the plan for auditing to be based on applying well-accepted audit principles that assure a high probability that incorrect outcomes will be detected and remedied.

I. Retain jurisdiction to ensure all Defendants' ongoing compliance with the foregoing Orders.

J. Grant Coalition Plaintiffs an award of its reasonable attorney's fees, costs, and expenses incurred in this action pursuant to [42 U.S.C. § 1988](#); and

J. Grant Coalition Plaintiffs such other relief as the Court deems just and proper.

DATED: September 6, 2019.

Respectfully submitted,

/s/ Bruce P. Brown

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Pro Hac Vice (5/17/19 text-only order)

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Counsel for Coalition Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

CERTIFICATE OF SERVICE

Pursuant to LR 7.1(D), I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14.

/s/ Bruce P. Brown
Bruce P. Brown

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER , ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2019, a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

/s/ Bruce P. Brown
Bruce P. Brown

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Exhibit
CGG 0005

**IN THE UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, et al.

Plaintiffs,

vs.

BRAD RAFFENSPERGER, et al.

Defendants.

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) **CIVIL ACTION FILE**
) **NO.: 1:17-cv-2989-AT**
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SUPPLEMENTAL DECLARATION OF MARILYN MARKS

I, MARILYN MARKS, hereby declare under penalty of perjury,
pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I have personal knowledge of all facts stated in this declaration and, if called to testify, I could and would testify competently thereto.
2. I am the Executive Director of Coalition for Good Governance (“CGG”).

I am over the age of 18.

CGG Activities and Diversion of Resources

3. Coalition for Good Governance, (formally known as Rocky Mountain Foundation) was founded in 2008 as a non-profit non-partisan corporation under the laws of Colorado. The current management of CGG undertook the management of the organization in 2014 with

primary work focused on election integrity and transparency in Colorado elections. Public records confirm that, at that time, current management brought approximately \$700,000 in funding to CGG to address the organization's goals.

4. After I moved to North Carolina in late 2015, CGG's work began to transition to more geographically diverse projects, including election security projects in North Carolina, South Carolina, and Tennessee and national projects with other non-profits.
5. CGG's work in 2015 in North Carolina involved a significant project to undertake administrative challenges to the lack of a secret ballot in early voting statewide. CGG challenged Charlotte-Mecklenburg County's failure to conduct a required post-election audit on the 2016 presidential election.
6. In early 2017, national election integrity groups urged me to expand CGG's reach to Georgia, which was known in national election integrity circles as having the least secure elections in the nation. After I watched the April 18, 2017 Fulton County election returns in the "jungle primary," where Fulton's server failed and anomalous results were reported, I began to redirect resources and time to focus on Georgia's election security issues.

7. CGG's first efforts in 2017 in Georgia were in petitioning then Secretary Kemp for a reexamination of the DRE voting system. CGG filed a lawsuit in Fulton County Superior Court in May 2017 seeking to remove DRE from use in the Ossoff/Handle Congressional District 6 runoff. In July 2017 this Curling lawsuit was filed, initially to challenge the outcome of that runoff, and then seeking to halt the use of the DRE system.
8. CCG organized other lawsuits in Georgia related to election matters including challenging the excess rejections of absentee ballots (2018), COVID-related voting infrastructure improvements (2020), and an election contest (2018), all of which commanded significant resources of CGG's volunteers' and management's time and CGG's modest budget.
9. The unpredicted complexity and protracted time requirements and expenses of this litigation has required CGG to consistently redirect resources of funding and management and volunteer time away from other desired projects that are of great interest to our board members, members, and donors.
10. I have had to reduce my active involvement in several important efforts that CGG supports because of the time demands of this litigation, and CGG has had to curtail and decline numerous organization activities.

Some examples include: inability to participate in the EAC's current process of accepting comments on the controversial pending Voluntary Voting System Standards; sharply reducing active involvement in Election Verification Network (a national organization of election experts); declining most speaking invitations on the topic of election security; ceased active involvement in State Audit Working Group (experts focused on developing election auditing standards); ceased activity in weekly meetings of Election Cybersecurity Working Group (a group proposing VVSG standards to NIST); ceased work in on-going drive-up voting project CGG initiated in North Carolina; became inactive in working with other North Carolina election transparency groups on voter education and transparency efforts in Wake County; reduced collaboration with North Carolina NAACP on voter education on election security; stopped participation in meetings of the North Carolina State Board of Elections; stopped participation in Charlotte-Mecklenburg Board of Elections meetings; lacked resources to provide requested consulting support for another non-profit organization's North Carolina state court case on ballot marking devices; abandoned CGG's plans to file a lawsuit in North Carolina against the use of ballot marking devices; deferred plans to file a lawsuit in North Carolina on the violations of

secret ballot laws; limiting CGG's involvement in the current effort to educate the New York State Board of Elections on the problems in using Ballot Marking Devices; declining request of Colorado members to help educate the Boulder Colorado City Council on problems with Instant Runoff Voting; declining the request of Georgia members to conduct voter education or author an opinion piece on the difficulties with Ranked Choice Voting; cancel plans for candidate forum on election security prior to the November election; cancel plans to conduct a meeting regarding Georgia needed election law changes with a group of Georgia lawmakers; delayed preparation of education materials for Georgia election officials regarding HB270; and failing to keep our website, fundraising efforts and donor communications current.

11. The examples of more current resource diversions listed above are similar to the activities and resource diversions detailed in June 2018 in Coalitions' Plaintiffs' TAC (Doc. 226 ¶¶142-143) which were true and correct at that time.

Batch Management-Tabulation Software Problem

12. During the November 3, 2021 election, Harri Hursti and I visited Gwinnett County Elections for several hours on multiple days as they were having significant problems with the Dominion server processing

certain batches of scanned ballot images uploaded on precinct scanner memory cards. County officials disclosed in public announcements that several thousand ballots (tens of thousands of votes) in the batches could not be processed. Mr. Hursti and I watched Dominion technicians make repeated unsuccessful efforts to process the ballots.

13. A Dominion technical expert, David Moreno, was flown in from Denver to attempt to remedy the vote tabulation problem. County spokesman Joe Sorenson repeated explained that ballots were simply failing to be processed by the system, and that thousands of ballots were caught up in the failure.

14. Based on contemporaneous discussions with Mr. Hursti, who was watching Mr. Moreno's actions and computer screens, it appeared that that Mr. Moreno made software code changes in real time to circumvent the problem to force the system to process most, but not all, of the uncounted ballots. After most of the ballots were processed and counted, Gwinnett quickly closed and certified the election. I estimated that at the time the election was certified at least 1,600 ballots remained uncounted. I asked county officials repeatedly, in emails and on site, for an accounting of these ballots, but received no response.

15. A few days later a statewide hand count audit of the presidential race was conducted. I was an authorized monitor of the audit process in several counties including Gwinnett. According to the audit summary published by the Secretary of State, attached hereto as Exhibit 1, during the audit Gwinnett discovered 1,642 more ballots than were originally counted. This confirmed my belief that over 1,600 ballots had not been counted even after Dominion made real time software changes and the Gwinnett Board of Elections certified the result.
16. CGG has Gwinnett-based members, but I do not have adequate information to know whether the uncounted ballots and discrepancies either before or after the Mr. Moreno's system adjustments affected the precinct counts in which our Gwinnett members vote. The change certainly affected the county vote tallies. Gwinnett has withheld production of documents in objection to CGG's document subpoena, which was issued in order to learn more about this software and vote counting problem. A joint discovery dispute is in front of the Court (Doc.1057) related to some of the documents sought to research the tabulation errors.
17. The ballot batch management problem apparently has been experienced in several counties, across several elections since at least August 11,

2020 when Harri Hursti first observed indications of this problem on Election Night in Fulton County. (Doc. 809-3 ¶ 41-43).

18. Rockdale County detailed their ballot batch management problem in a series of emails to the Secretary of State's Office and Dominion. These emails are attached as Exhibit 1. Ms. Willingham's description (Exhibit 1 at 2, 6-7) of the problem is consistent with information we have obtained concerning this software and tabulation problem.
19. We have no reason to believe that the vote count discrepancies created by the batch management software problem were significant enough to change the result of the presidential election. In fact, the hand count audit found that both the manual tabulation of ballots and the machine count of the ballots showed President Biden with highest number of votes.

Tabulation Discrepancies and Audit Failure

20. After the counties' certification of their election results, the Secretary of State ordered a full manual count of the ballots in the Presidential contest and called it a "Risk Limiting Audit" with a "Risk Limit of Zero." (timestamp 1:22. <https://www.rev.com/blog/transcripts/georgia-press-conference-on-election-recount-updates-transcript-november-18>)
- Voting Works was engaged to manage the audit process and conduct the

tabulation and consolidation of the manual counts using their software “Arlo.”

21. CGG had approximately 6 authorized audit monitors observing the hand count at various times across approximately 12 counties. Harri Hursti and I worked as a team and observed audit operations in Gwinnett, Clayton, DeKalb, Fulton and Cobb counties.
22. Based my knowledge of auditing principles and election audit processes, and my observations of the processes employed in Georgia, the audit procedures employed were not standard, not transparent, and violated fundamental election audit procedures. Count data was concealed from the public during the audit and entered into Voting Works applications in a process that monitors were not permitted to watch in many counties.
23. I fielded numerous calls from our monitors and election integrity and election auditing experts from other states complaining about the unusual audit practices and lack of transparency. Harri Hursti and I conferred with Professor Philip Stark multiple times each day during the audit regarding Voting Works’s and the Secretary’s non-standard procedures that were generating widespread dissatisfaction with the audit process.

24. Based on my discussions with Professor Stark and Harri Hursti during several times that they were studying Voting Works' publicly published source code, my understanding is that the source code was apparently being frequently updated in real time while the audit was being conducted and the data input and preliminary results were being concealed from the public.
25. The Secretary did not permit the counties to disclose the manual counts as they were being conducted and required that results be confidential until after his office reviewed and disclosed them. This practice is in violation of standard election auditing practices of end-to-end transparency. O.C.G.A. § 21-2-498(c)(4) requires that election audits be conducted in view of the public. The audit was not in public view as counts were hidden from observers.
26. As one example of such audit transparency failure, as I was reading a batch sheet of tallies on a box of counted ballots at the DeKalb audit facility in my role as a monitor, the Chairman of the DeKalb County Board of Elections told me that I was not permitted to see the vote tallies on the batch sheets. When I asked why, he screamed at me, "Because I said so." I encountered similar obstruction at some other counties as well.

On the other hand, Gwinnett County's auditing process was quite transparent, and monitors, the press and the public were permitted to see the necessary documents and tallying processes. The lack of standard minimum requirements for transparency of the audit process demonstrated to me that Georgia's audit processes cannot be relied on to produce reliable audit information.

27. Exhibit 2 is a true and correct copy of one the audit summaries released by the Secretary of State in his press release concerning the audit findings.

(https://sos.ga.gov/index.php/elections/historic_first_statewide_audit_of_paper_ballots_upholds_result_of_presidential_race) CGG will

investigate some of the anomalous-appearing discrepancies when discovery documents become available from counties. For example, Exhibit 2 shows that Bartow County found 52 fewer ballots in the audit than machine count, but President Biden gained 66 votes. Clayton County's manual audit found 360 fewer ballots than the machine count, yet former President Trump gained 145 votes. These are two of many such anomalous appearing county audit results, suggesting that error rates are higher than implied by the Secretary's office. The summary and our initial work on details that are available indicate that there were

numerous offsetting errors in the machine vote counts compared to the audited tabulations, raising questions about the quality of the tabulation software. (Despite the large number of errors, they were generally offsetting.)

28. After the hand count audit, an official statewide recount was conducted by rescanning all ballots. There were a number of discrepancies between machine counts that tallied the same ballots, although no outcome-changing discrepancies were detected. Exhibit 3 is a worksheet prepared by CGG analyst under my supervision that shows discrepancies in gray highlight between the precinct results for the machine recount compared to the original machine count precinct results for some of our members' home precincts in Fulton County. The data was obtained from published reports of the results and recount reports obtained through public records requests. The hand count audit results are not available in the public records except in the case of Rhonda Martin's precinct 08H. The member's precincts listed on the worksheet are Megan Missett, Virginia Forney, Rhonda Martin, Aileen Nakamura, and Shea Roberts. The precincts in which the CGG members live is confirmed in public record.
29. For example, in Rhonda Martin's O8H precinct, the BMD early voting vote count for President Biden was 574 in the original machine count and

569 in the machine recount. In Aileen Nakamura's SS06 precinct, the mail vote count for President Biden changed from 288 to 284 in the machine recount. In Plaintiff Megan Missett's 06J precinct, the original machine early vote count for President Biden was 1,036 and the machine recount was 1,033.

30. I monitored the Secretary's press conferences and public announcements concerning the hand count audit and the official machine recount. The Secretary and Gabe Sterling, a spokesperson for the Secretary, repeatedly minimized the discrepancies and offsetting errors that were detected in the audit, implying that there were only rare discrepancies. On December 23, 2020 testifying before the Georgia House of Representatives Governmental Affairs Committee, Secretary Raffensperger stated that the audit proved that the machines "did not flip votes," going on to say, "But what we've shown is that the machines are accurately tabulating."

(timestamp 2:53:00

<https://www.youtube.com/watch?v=gCjbPJLBI7c&feature=youtu.be>)

31. Public records document the fact that the machines were not "accurately tabulating," despite the fact that discrepancies did not have an impact on the outcome of the election -- President Biden's vote count was higher. CGG is in the initial stages of conducting discovery on the audit reports,

recount reports and discrepancies and does not yet have enough information to determine the cause of the apparent discrepancies.

Ballot Secrecy

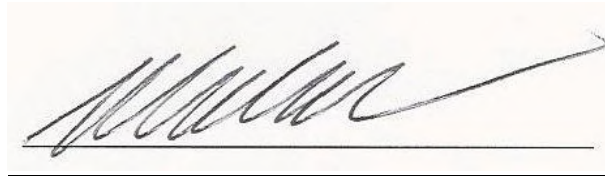
32. I have observed dozens of Georgia's polling places since the pilot BMD election in November 2019 through the November 2020 election. In the several hundred BMD's I have seen installed in the polling places, including in polling places where some CGG members have voted, I have seen less than 20 BMDs that protected the privacy of the voters' choices, which was only possible in a very large polling place facility deploying a small number of machines.

33. As reflected in the Summary of Evidence, Exhibit A to this filing, CGG has collected numerous reports covering the entire 17-month period of BMD use. Over the last year, our reports from members and observers show no meaningful improvement in ballot secrecy statewide. Although the Secretary issued guidance to the counties one year ago (Doc. 716-3 at 8, 10-13), CGG members' and observers' and my previous declarations show that Secretary's recommended arrangement was ineffective in protecting ballot secrecy.

34. Based on my personal observations, the suggested arrangement of equipment requires more floor space than is available in many polling

places and does not effectively obscure sightlines to the touchscreens by people in the polling place. This reality is in conflict with the Secretary of State's order of March 31, 2020. (Doc. 809-1 at 20). The Secretary's order was a result of a Help America Vote Act complaint filed by CGG in to address the violation of ballot secrecy that appears to be impractical to resolve given the design of the Dominion BMD units.

Executed on this date, February 12, 2021

A handwritten signature in black ink, appearing to read "M. Marks", is written over a horizontal line. The signature is fluid and cursive.

Marilyn Marks

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County	Risk-Limiting Audit Full Hand Count					Total Votes	Margin	Margin Diff		Total Count Diff	
	Trump	Biden	Jorgensen	Total	Margin			Raw #	%	Raw #	%
APPLING	6570	1785	36	8,391	+4,785 Trump	8,341	+4,747 Trump	+38 Trump	+0.456% Trump	50	0.599%
ATKINSON	2300	825	30	3,155	+1,475 Trump	3,155	+1,475 Trump	+0 Biden	+0.000% Biden	0	0.000%
BACON	4018	625	25	4,668	+3,393 Trump	4,668	+3,393 Trump	+0 Biden	+0.000% Biden	0	0.000%
BAKER	897	652	6	1,555	+245 Trump	1,555	+245 Trump	+0 Biden	+0.000% Biden	0	0.000%
BALDWIN	8906	9139	207	18,252	+233 Biden	18,251	+237 Biden	+4 Trump	+0.022% Trump	1	0.005%
BANKS	7796	931	74	8,801	+6,865 Trump	8,801	+6,863 Trump	+2 Trump	+0.023% Trump	0	0.000%
BARROW	26804	10453	664	37,921	+16,351 Trump	37,921	+16,351 Trump	+0 Biden	+0.000% Biden	0	0.000%
BARTOW	37615	12099	701	50,415	+25,516 Trump	50,467	+25,582 Trump	+66 Biden	+0.131% Biden	-52	-0.103%
BEN HILL	4111	2393	60	6,564	+1,718 Trump	6,560	+1,718 Trump	+0 Biden	+0.000% Biden	4	0.061%
BERRIEN	6419	1269	55	7,743	+5,150 Trump	7,743	+5,150 Trump	+0 Biden	+0.000% Biden	0	0.000%
BIBB	26617	43412	749	70,778	+16,795 Biden	70,802	+16,883 Biden	+88 Trump	+0.124% Trump	-24	-0.034%
BLECKLEY	4328	1311	67	5,706	+3,017 Trump	5,706	+3,017 Trump	+0 Biden	+0.000% Biden	0	0.000%
BRANTLEY	7001	690	57	7,748	+6,311 Trump	7,746	+6,292 Trump	+19 Trump	+0.245% Trump	2	0.026%
BROOKS	4261	2790	50	7,101	+1,471 Trump	7,100	+1,470 Trump	+1 Trump	+0.014% Trump	1	0.014%
BRYAN	14240	6739	355	21,334	+7,501 Trump	21,340	+7,505 Trump	+4 Biden	+0.019% Biden	-6	-0.028%
BULLOCH	18387	11248	455	30,090	+7,139 Trump	30,084	+7,143 Trump	+4 Biden	+0.013% Biden	6	0.020%
BURKE	5400	5208	75	10,683	+192 Trump	10,684	+191 Trump	+1 Trump	+0.009% Trump	-1	-0.009%
BUTTS	8405	3272	91	11,768	+5,133 Trump	11,771	+5,132 Trump	+1 Trump	+0.008% Trump	-3	-0.025%
CALHOUN	911	1264	12	2,187	+353 Biden	2,194	+337 Biden	+16 Biden	+0.729% Biden	-7	-0.319%
CAMDEN	15262	7969	470	23,701	+7,293 Trump	23,688	+7,284 Trump	+9 Trump	+0.038% Trump	13	0.055%
CANDLER	3132	1270	30	4,432	+1,862 Trump	4,431	+1,864 Trump	+2 Biden	+0.045% Biden	1	0.023%
CARROLL	37476	16238	760	54,474	+21,238 Trump	54,474	+21,238 Trump	+0 Biden	+0.000% Biden	0	0.000%
CATOOSA	25168	6931	494	32,593	+18,237 Trump	32,593	+18,235 Trump	+2 Trump	+0.006% Trump	0	0.000%
CHARLTON	3419	1105	44	4,568	+2,314 Trump	4,566	+2,316 Trump	+2 Biden	+0.044% Biden	2	0.044%
CHATHAM	53248	78316	1912	133,476	+25,068 Biden	133,420	+25,017 Biden	+51 Biden	+0.038% Biden	56	0.042%
CHATTAHOOCHEE	880	667	35	1,582	+213 Trump	1,582	+213 Trump	+0 Biden	+0.000% Biden	0	0.000%
CHATTOOGA	8064	1854	132	10,050	+6,210 Trump	10,050	+6,210 Trump	+0 Biden	+0.000% Biden	0	0.000%
CHEROKEE	99590	42787	2450	144,827	+56,803 Trump	144,830	+56,793 Trump	+10 Trump	+0.007% Trump	-3	-0.002%
CLARKE	14482	36006	842	51,330	+21,524 Biden	51,333	+21,602 Biden	+78 Trump	+0.152% Trump	-3	-0.006%
CLAY	637	790	7	1,434	+153 Biden	1,434	+153 Biden	+0 Biden	+0.000% Biden	0	0.000%
CLAYTON	15714	95232	1038	111,984	+79,518 Biden	112,344	+79,663 Biden	+145 Trump	+0.129% Trump	-360	-0.320%
CLINCH	2105	747	12	2,864	+1,358 Trump	2,864	+1,358 Trump	+0 Biden	+0.000% Biden	0	0.000%
COBB	165114	221816	6515	393,445	+56,702 Biden	393,746	+56,387 Biden	+315 Biden	+0.080% Biden	-301	-0.076%
COFFEE	10578	4511	125	15,214	+6,067 Trump	15,214	+6,067 Trump	+0 Biden	+0.000% Biden	0	0.000%
COLQUITT	11778	4189	119	16,086	+7,589 Trump	16,083	+7,590 Trump	+1 Biden	+0.006% Biden	3	0.019%
COLUMBIA	50043	29197	1346	80,586	+20,846 Trump	80,579	+20,777 Trump	+69 Trump	+0.086% Trump	7	0.009%
COOK	4900	2059	76	7,035	+2,841 Trump	7,035	+2,841 Trump	+0 Biden	+0.000% Biden	0	0.000%
COWETA	51494	24219	1089	76,802	+27,275 Trump	76,799	+27,291 Trump	+16 Biden	+0.021% Biden	3	0.004%
CRAWFORD	4428	1615	59	6,102	+2,813 Trump	6,102	+2,813 Trump	+0 Biden	+0.000% Biden	0	0.000%
CRISP	4991	2989	66	8,046	+2,002 Trump	8,039	+2,001 Trump	+1 Trump	+0.012% Trump	7	0.087%

County	Risk-Limiting Audit Full Hand Count					Total Votes	Margin	Margin Diff		Total Count Diff	
	Trump	Biden	Jorgensen	Total	Margin			Raw #	%	Raw #	%
DADE	6066	1261	107	7,434	+4,805 Trump	7,434	+4,805 Trump	+0 Biden	+0.000% Biden	0	0.000%
DAWSON	13398	2486	197	16,081	+10,912 Trump	16,081	+10,912 Trump	+0 Biden	+0.000% Biden	0	0.000%
DECATUR	6758	4779	90	11,627	+1,979 Trump	11,627	+1,978 Trump	+1 Trump	+0.009% Trump	0	0.000%
DEKALB	58438	308769	4236	371,443	+250,331 Biden	370,711	+249,771 Biden	+560 Biden	+0.151% Biden	732	0.197%
DODGE	5843	2172	56	8,071	+3,671 Trump	8,070	+3,672 Trump	+1 Biden	+0.012% Biden	1	0.012%
DOOLY	2160	1910	35	4,105	+250 Trump	4,105	+248 Trump	+2 Trump	+0.049% Trump	0	0.000%
DOUGHERTY	10412	24656	280	35,348	+14,244 Biden	35,305	+14,127 Biden	+117 Biden	+0.331% Biden	43	0.122%
DOUGLAS	25446	42814	838	69,098	+17,368 Biden	69,097	+17,358 Biden	+10 Biden	+0.014% Biden	1	0.001%
EARLY	2709	2451	28	5,188	+258 Trump	5,187	+285 Trump	+27 Biden	+0.521% Biden	1	0.019%
ECHOLS	1256	167	18	1,441	+1,089 Trump	1,441	+1,089 Trump	+0 Biden	+0.000% Biden	0	0.000%
EFFINGHAM	23359	7713	492	31,564	+15,646 Trump	31,570	+15,638 Trump	+8 Trump	+0.025% Trump	-6	-0.019%
ELBERT	6229	2878	66	9,173	+3,351 Trump	9,171	+3,347 Trump	+4 Trump	+0.044% Trump	2	0.022%
EMANUEL	6556	2888	66	9,510	+3,668 Trump	9,501	+3,667 Trump	+1 Trump	+0.011% Trump	9	0.095%
EVANS	2888	1324	35	4,247	+1,564 Trump	4,247	+1,564 Trump	+0 Biden	+0.000% Biden	0	0.000%
FANNIN	12170	2568	110	14,848	+9,602 Trump	14,850	+9,598 Trump	+4 Trump	+0.027% Trump	-2	-0.013%
FAYETTE	38024	33111	975	72,110	+4,913 Trump	71,993	+4,887 Trump	+26 Trump	+0.036% Trump	117	0.163%
FLOYD	28687	11853	512	41,052	+16,834 Trump	38,588	+16,926 Trump	+92 Biden	+0.238% Biden	2,464	6.385%
FORSYTH	85142	42158	1995	129,295	+42,984 Trump	129,305	+42,919 Trump	+65 Trump	+0.050% Trump	-10	-0.008%
FRANKLIN	9072	1589	102	10,763	+7,483 Trump	10,765	+7,476 Trump	+7 Trump	+0.065% Trump	-2	-0.019%
FULTON	137620	381179	6494	525,293	+243,559 Biden	524,659	+243,904 Biden	+345 Trump	+0.066% Trump	634	0.121%
GILMER	13429	2932	164	16,525	+10,497 Trump	16,525	+10,497 Trump	+0 Biden	+0.000% Biden	0	0.000%
GLASCOCK	1402	155	8	1,565	+1,247 Trump	1,566	+1,248 Trump	+1 Biden	+0.064% Biden	-1	-0.064%
GLYNN	25630	15868	490	41,988	+9,762 Trump	41,984	+9,737 Trump	+25 Trump	+0.060% Trump	4	0.010%
GORDON	19406	4383	244	24,033	+15,023 Trump	24,033	+15,021 Trump	+2 Trump	+0.008% Trump	0	0.000%
GRADY	7049	3601	54	10,704	+3,448 Trump	10,707	+3,415 Trump	+33 Trump	+0.308% Trump	-3	-0.028%
GREENE	7068	4088	91	11,247	+2,980 Trump	11,247	+2,980 Trump	+0 Biden	+0.000% Biden	0	0.000%
GWINNETT	167361	242490	5656	415,507	+75,129 Biden	413,865	+75,414 Biden	+285 Trump	+0.069% Trump	1,642	0.397%
HABERSHAM	16636	3554	235	20,425	+13,082 Trump	20,432	+13,074 Trump	+8 Trump	+0.039% Trump	-7	-0.034%
HALL	64246	25061	1336	90,643	+39,185 Trump	90,523	+39,139 Trump	+46 Trump	+0.051% Trump	120	0.133%
HANCOCK	1154	2975	23	4,152	+1,821 Biden	4,165	+1,826 Biden	+5 Trump	+0.120% Trump	-13	-0.312%
HARALSON	12331	1792	125	14,248	+10,539 Trump	14,248	+10,539 Trump	+0 Biden	+0.000% Biden	0	0.000%
HARRIS	14319	5456	215	19,990	+8,863 Trump	19,991	+8,862 Trump	+1 Trump	+0.005% Trump	-1	-0.005%
HART	9466	3155	106	12,727	+6,311 Trump	12,727	+6,307 Trump	+4 Trump	+0.031% Trump	0	0.000%
HEARD	4519	824	51	5,394	+3,695 Trump	5,391	+3,692 Trump	+3 Trump	+0.056% Trump	3	0.056%
HENRY	48153	73359	1303	122,815	+25,206 Biden	122,742	+25,089 Biden	+117 Biden	+0.095% Biden	73	0.059%
HOUSTON	41520	32262	1059	74,841	+9,258 Trump	74,823	+9,302 Trump	+44 Biden	+0.059% Biden	18	0.024%
IRWIN	3131	1012	24	4,167	+2,119 Trump	4,168	+2,126 Trump	+7 Biden	+0.168% Biden	-1	-0.024%
JACKSON	29507	7639	532	37,678	+21,868 Trump	37,670	+21,855 Trump	+13 Trump	+0.035% Trump	8	0.021%
JASPER	5822	1760	61	7,643	+4,062 Trump	7,644	+4,061 Trump	+1 Trump	+0.013% Trump	-1	-0.013%
JEFF DAVIS	4695	1028	48	5,771	+3,667 Trump	5,771	+3,667 Trump	+0 Biden	+0.000% Biden	0	0.000%

County	Risk-Limiting Audit Full Hand Count						Original Reporting			Margin Diff			Total Count Diff	
	Trump	Biden	Jorgensen	Total	Margin		Total Votes	Margin		Raw #	%		Raw #	%
JEFFERSON	3538	4059	43	7,640	+521 Biden		7,642	+524 Biden		+3 Trump	+0.039% Trump		-2	-0.026%
JENKINS	2161	1266	28	3,455	+895 Trump		3,455	+895 Trump		+0 Biden	+0.000% Biden		0	0.000%
JOHNSON	2849	1222	28	4,099	+1,627 Trump		4,100	+1,628 Trump		+1 Biden	+0.024% Biden		-1	-0.024%
JONES	9940	4896	112	14,948	+5,044 Trump		14,966	+5,077 Trump		+33 Biden	+0.220% Biden		-18	-0.120%
LAMAR	6331	2610	94	9,035	+3,721 Trump		9,039	+3,715 Trump		+6 Trump	+0.066% Trump		-4	-0.044%
LANIER	2512	1016	48	3,576	+1,496 Trump		3,576	+1,490 Trump		+6 Trump	+0.168% Trump		0	0.000%
LAURENS	14496	8071	161	22,728	+6,425 Trump		22,729	+6,420 Trump		+5 Trump	+0.022% Trump		-1	-0.004%
LEE	12007	4558	149	16,714	+7,449 Trump		16,714	+7,449 Trump		+0 Biden	+0.000% Biden		0	0.000%
LIBERTY	7960	13131	331	21,422	+5,171 Biden		21,389	+5,140 Biden		+31 Biden	+0.145% Biden		33	0.154%
LINCOLN	3173	1431	38	4,642	+1,742 Trump		4,650	+1,744 Trump		+2 Biden	+0.043% Biden		-8	-0.172%
LONG	3526	2037	96	5,659	+1,489 Trump		5,656	+1,495 Trump		+6 Biden	+0.106% Biden		3	0.053%
LOWNDES	25727	20083	547	46,357	+5,644 Trump		46,355	+5,574 Trump		+70 Trump	+0.151% Trump		2	0.004%
LUMPKIN	12163	3126	242	15,531	+9,037 Trump		15,531	+9,037 Trump		+0 Biden	+0.000% Biden		0	0.000%
MACON	1799	2849	22	4,670	+1,050 Biden		4,662	+1,074 Biden		+24 Trump	+0.515% Trump		8	0.172%
MADISON	11326	3411	200	14,937	+7,915 Trump		14,937	+7,915 Trump		+0 Biden	+0.000% Biden		0	0.000%
MARION	2275	1311	38	3,624	+964 Trump		3,624	+964 Trump		+0 Biden	+0.000% Biden		0	0.000%
MCDUFFIE	6146	4174	132	10,452	+1,972 Trump		10,455	+2,001 Trump		+29 Biden	+0.277% Biden		-3	-0.029%
MCINTOSH	4018	2610	68	6,696	+1,408 Trump		6,696	+1,404 Trump		+4 Trump	+0.060% Trump		0	0.000%
MERIWETHER	6524	4287	66	10,877	+2,237 Trump		10,877	+2,237 Trump		+0 Biden	+0.000% Biden		0	0.000%
MILLER	2066	747	20	2,833	+1,319 Trump		2,835	+1,317 Trump		+2 Trump	+0.071% Trump		-2	-0.071%
MITCHELL	4935	3995	33	8,963	+940 Trump		8,963	+940 Trump		+0 Biden	+0.000% Biden		0	0.000%
MONROE	11058	4388	152	15,598	+6,670 Trump		15,592	+6,676 Trump		+6 Biden	+0.038% Biden		6	0.038%
MONTGOMERY	2960	980	27	3,967	+1,980 Trump		3,966	+1,981 Trump		+1 Biden	+0.025% Biden		1	0.025%
MORGAN	8227	3357	122	11,706	+4,870 Trump		11,707	+4,875 Trump		+5 Biden	+0.043% Biden		-1	-0.009%
MURRAY	12943	2305	144	15,392	+10,638 Trump		15,389	+10,641 Trump		+3 Biden	+0.019% Biden		3	0.019%
MUSCOGEE	30025	49493	986	80,504	+19,468 Biden		80,543	+19,480 Biden		+12 Trump	+0.015% Trump		-39	-0.048%
NEWTON	23888	29787	577	54,252	+5,899 Biden		54,239	+5,925 Biden		+26 Trump	+0.048% Trump		13	0.024%
OCONEE	16596	8160	411	25,167	+8,436 Trump		25,168	+8,433 Trump		+3 Trump	+0.012% Trump		-1	-0.004%
OGLETHORPE	5592	2437	102	8,131	+3,155 Trump		8,131	+3,157 Trump		+2 Biden	+0.025% Biden		0	0.000%
PAULDING	54512	29681	1154	85,347	+24,831 Trump		85,385	+24,821 Trump		+10 Trump	+0.012% Trump		-38	-0.045%
PEACH	6513	5926	125	12,564	+587 Trump		12,545	+582 Trump		+5 Trump	+0.040% Trump		19	0.151%
PICKENS	14087	2816	233	17,136	+11,271 Trump		17,116	+11,267 Trump		+4 Trump	+0.023% Trump		20	0.117%
PIERCE	7900	1099	49	9,048	+6,801 Trump		9,048	+6,799 Trump		+2 Trump	+0.022% Trump		0	0.000%
PIKE	9127	1504	88	10,719	+7,623 Trump		10,720	+7,622 Trump		+1 Trump	+0.009% Trump		-1	-0.009%
POLK	13581	3647	149	17,377	+9,934 Trump		17,399	+9,931 Trump		+3 Trump	+0.017% Trump		-22	-0.126%
PULASKI	2816	1231	37	4,084	+1,585 Trump		4,059	+1,588 Trump		+3 Biden	+0.074% Biden		25	0.616%
PUTNAM	8291	3448	116	11,855	+4,843 Trump		11,855	+4,843 Trump		+0 Biden	+0.000% Biden		0	0.000%
QUITMAN	604	497	5	1,106	+107 Trump		1,106	+107 Trump		+0 Biden	+0.000% Biden		0	0.000%
RABUN	7473	1985	110	9,568	+5,488 Trump		9,568	+5,490 Trump		+2 Biden	+0.021% Biden		0	0.000%
RANDOLPH	1391	1671	12	3,074	+280 Biden		3,074	+280 Biden		+0 Biden	+0.000% Biden		0	0.000%

County	Risk-Limiting Audit Full Hand Count					Total Votes	Margin	Margin Diff		Total Count Diff	
	Trump	Biden	Jorgensen	Total	Margin			Raw #	%	Raw #	%
RICHMOND	26767	59142	1111	87,020	+32,375 Biden	87,016	+32,343 Biden	+32 Biden	+0.037% Biden	4	0.005%
ROCKDALE	13129	31120	431	44,680	+17,991 Biden	44,686	+18,232 Biden	+241 Trump	+0.539% Trump	-6	-0.013%
SCHLEY	1800	462	13	2,275	+1,338 Trump	2,275	+1,338 Trump	+0 Biden	+0.000% Biden	0	0.000%
SCREVEN	3936	2644	51	6,631	+1,292 Trump	6,628	+1,255 Trump	+37 Trump	+0.558% Trump	3	0.045%
SEMINOLE	2613	1256	19	3,888	+1,357 Trump	3,884	+1,357 Trump	+0 Biden	+0.000% Biden	4	0.103%
SPALDING	18057	11784	275	30,116	+6,273 Trump	30,116	+6,273 Trump	+0 Biden	+0.000% Biden	0	0.000%
STEPHENS	9369	2385	132	11,886	+6,984 Trump	11,885	+6,983 Trump	+1 Trump	+0.008% Trump	1	0.008%
STEWART	802	1181	7	1,990	+379 Biden	1,990	+381 Biden	+2 Trump	+0.101% Trump	0	0.000%
SUMTER	5715	6324	99	12,138	+609 Biden	12,150	+586 Biden	+23 Biden	+0.189% Biden	-12	-0.099%
TALBOT	1392	2114	16	3,522	+722 Biden	3,522	+722 Biden	+0 Biden	+0.000% Biden	0	0.000%
TALIAFERRO	360	561	7	928	+201 Biden	928	+201 Biden	+0 Biden	+0.000% Biden	0	0.000%
TATTNALL	6055	2053	76	8,184	+4,002 Trump	8,183	+3,992 Trump	+10 Trump	+0.122% Trump	1	0.012%
TAYLOR	2420	1388	34	3,842	+1,032 Trump	3,839	+1,031 Trump	+1 Trump	+0.026% Trump	3	0.078%
TELFAIR	2822	1491	21	4,334	+1,331 Trump	4,333	+1,338 Trump	+7 Biden	+0.162% Biden	1	0.023%
TERRELL	2009	2371	36	4,416	+362 Biden	4,416	+372 Biden	+10 Trump	+0.226% Trump	0	0.000%
THOMAS	13027	8697	190	21,914	+4,330 Trump	21,853	+4,246 Trump	+84 Trump	+0.384% Trump	61	0.279%
TIFT	10782	5323	177	16,282	+5,459 Trump	16,283	+5,462 Trump	+3 Biden	+0.018% Biden	-1	-0.006%
TOOMBS	7873	2941	104	10,918	+4,932 Trump	10,914	+4,933 Trump	+1 Biden	+0.009% Biden	4	0.037%
TOWNS	6385	1549	45	7,979	+4,836 Trump	7,979	+4,834 Trump	+2 Trump	+0.025% Trump	0	0.000%
TREUTLEN	2101	952	24	3,077	+1,149 Trump	3,077	+1,149 Trump	+0 Biden	+0.000% Biden	0	0.000%
TROUP	18146	11582	328	30,056	+6,564 Trump	30,049	+6,565 Trump	+1 Biden	+0.003% Biden	7	0.023%
TURNER	2349	1410	33	3,792	+939 Trump	3,792	+939 Trump	+0 Biden	+0.000% Biden	0	0.000%
TWIGGS	2366	2048	31	4,445	+318 Trump	4,444	+326 Trump	+8 Biden	+0.180% Biden	1	0.023%
UNION	12652	2801	109	15,562	+9,851 Trump	15,560	+9,850 Trump	+1 Trump	+0.006% Trump	2	0.013%
UPSON	8613	4199	96	12,908	+4,414 Trump	12,905	+4,407 Trump	+7 Trump	+0.054% Trump	3	0.023%
WALKER	23155	5770	412	29,337	+17,385 Trump	29,354	+17,405 Trump	+20 Biden	+0.068% Biden	-17	-0.058%
WALTON	37858	12612	570	51,040	+25,246 Trump	51,095	+25,160 Trump	+86 Trump	+0.168% Trump	-55	-0.108%
WARE	9902	4174	117	14,193	+5,728 Trump	14,192	+5,654 Trump	+74 Trump	+0.521% Trump	1	0.007%
WARREN	1168	1466	16	2,650	+298 Biden	2,651	+303 Biden	+5 Trump	+0.189% Trump	-1	-0.038%
WASHINGTON	4670	4743	65	9,478	+73 Biden	9,459	+67 Biden	+6 Biden	+0.063% Biden	19	0.201%
WAYNE	10001	2661	104	12,766	+7,340 Trump	12,778	+7,300 Trump	+40 Trump	+0.313% Trump	-12	-0.094%
WEBSTER	749	639	3	1,391	+110 Trump	1,390	+109 Trump	+1 Trump	+0.072% Trump	1	0.072%
WHEELER	1583	689	13	2,285	+894 Trump	2,285	+894 Trump	+0 Biden	+0.000% Biden	0	0.000%
WHITE	12222	2411	183	14,816	+9,811 Trump	14,816	+9,811 Trump	+0 Biden	+0.000% Biden	0	0.000%
WHITFIELD	25666	10677	443	36,786	+14,989 Trump	36,746	+14,966 Trump	+23 Trump	+0.063% Trump	40	0.109%
WILCOX	2403	861	16	3,280	+1,542 Trump	3,281	+1,541 Trump	+1 Trump	+0.030% Trump	-1	-0.030%
WILKES	2822	2161	47	5,030	+661 Trump	5,029	+663 Trump	+2 Biden	+0.040% Biden	1	0.020%
WILKINSON	2667	2067	31	4,765	+600 Trump	4,770	+589 Trump	+11 Trump	+0.231% Trump	-5	-0.105%
WORTH	6829	2398	60	9,287	+4,431 Trump	9,285	+4,435 Trump	+4 Biden	+0.043% Biden	2	0.022%

	Risk-Limiting Audit Full Hand Count						Original Reporting			Margin Diff			Total Count Diff	
County	Trump	Biden	Jorgensen	Total	Margin		Total Votes	Margin		Raw #	%		Raw #	%
TOTALS	2,462,857	2,475,141	62,587	5,000,585	+12,284 Biden		4,995,323	+12,780 Biden		+496 Trump	+0.0099% Trump		5,262	0.1053%

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Cynthia Willingham

From: Cynthia Willingham
Sent: Tuesday, June 02, 2020 12:24 PM
To: Scott Tucker
Cc: Chris Harvey; Rayburn, Kevin
Subject: Problems Scanning Election Ballots
Attachments: icc error message.jpg

URGENT ASSISTANCE NEEDED

Good Day All, your immediate help is needed with addressing the error we're getting in Scanning the Ballots on the ICC. The Invalid Ballot Error Message is attached.

We have made several attempts in calling Dominion with no resolution. It is imperative that someone timely be available to assist Counties with addressing issues with the New Voting System. This problem was not experienced during L&A. We have tried, re-loading the tabulator files , re-creating the files, to no avail.

We have no choice but to await a response from Dominion on resolving this problem; however, it is disappointing regarding the response time we have received. It should not take several hours to get a response.

Thanks and you may contact me on my cellphone at (404) 409.7955.

**Cynthia Willingham, Supervisor of Elections
Rockdale County Board of Elections**

Ph. (770) 278-7333

Fax (770) 785-5932

"Your Voice...Your Choice...Your Vote"

Cynthia Willingham

From: Cynthia Willingham
Sent: Tuesday, June 09, 2020 10:11 PM
To: Scott Tucker; Chris Harvey; Rayburn, Kevin
Cc: Hill, Brian
Subject: Production of Election Results

Hello all, I wish I could say good day....Since just after 7pm, we have been attempting to pull over the By Mail Ballots to RTR to no avail...The Regional Manager has been here on site for at least 2 hours and still no results. I have observed the Regional Manager speaking with Mitch...still no results...NOW I am reaching out to you...Everyone is asking where are the results for mail ballots...I have no answers...I'm sending this email out to you, praying you will be able to assist. You may call me on my cellphone 404.409.7955.

**Cynthia Willingham, Supervisor of Elections
Rockdale County Board of Elections
Ph. (770) 278-7333
Fax (770) 785-5932
"Your Voice...Your Choice...Your Vote"**

Cynthia Willingham

From: Cynthia Willingham
Sent: Wednesday, June 10, 2020 12:53 AM
To: Cynthia Willingham
Cc: Aldren Sadler, Sr.; gerald barger; Karen James (karenjames2507@yahoo.com)
Subject: Rockdale Election Results
Attachments: ROCKDALE UNOFFICIAL_INCOMPLETE ELECTION RESULTS 6_9_20 Election.pdf

Hello Everyone, the Board of Elections and I would like to again thank you for your patience as we work through issues, at no fault of ours, in producing election results of the June 9th election. We are committed to getting you results as soon as they are available to us.

Attached is the latest of what we have been able to pull from the tabulation system. These results includes, Dem+Rep+NP Votes (see the last page of the results) as follows: 7,895 Election Day Votes; 5,516 Advance In-Person Votes; and 2,906 Absentee By Mail Votes (this is just a portion of the Absentee by Mail Votes). Total Votes so far – 16,317 Votes.

We are still unable to produce all of the By Mail Votes. We will try again tomorrow.

Thanks again.

**Cynthia Willingham, Supervisor of Elections
Rockdale County Board of Elections
Ph. (770) 278-7333
Fax (770) 785-5932
"Your Voice...Your Choice...Your Vote"**

Cynthia Willingham

From: Cynthia Willingham
Sent: Wednesday, June 10, 2020 1:32 AM
To: Cynthia Willingham
Cc: Aldren Sadler, Sr.; gerald barger; Karen James (karenjames2507@yahoo.com)
Subject: Rockdale Election Results
Attachments: ROCKDALE COUNTY UNOFFICIAL AND INCOMPLETE ELECTION RESULTS 6_9_20.pdf

Hello Again Everyone, FINALLY...WE HAVE SOME NUMBERS. PLEASE NOTE, THESE NUMBERS ARE UNOFFICIAL UNTIL THEY ARE RECONCILED AND CERTIFIED BY THE BOARD OF ELECTIONS. ALSO, WE STILL HAVE MORE ABSENTEE BY MAIL BALLOTS THAT HAVE TO BE VALIDATED BEFORE THEY CAN BE ACCEPTED AND COUNTED (APPROXIMATELY 600). PROVISIONAL BALLOTS WILL BE VALIDATED BEGINNING TOMORROW (WEDNESDAY) AND COUNTED ON FRIDAY, JUST 12TH.

AS IT STANDS RIGHT NOW, WE HAVE LOCAL RUNOFF ELECTIONS FOR: CLERK OF COURTS AND BOARD OF EDUCATION POST 5.

THANK EACH OF YOU...AND CONGRATS TO ALL!

**Cynthia Willingham, Supervisor of Elections
Rockdale County Board of Elections
Ph. (770) 278-7333
Fax (770) 785-5932
"Your Voice...Your Choice...Your Vote"**

Cynthia Willingham

From: Cynthia Willingham
Sent: Wednesday, June 10, 2020 1:40 AM
To: Cynthia Willingham
Cc: Elsie Roy; Renee Phifer; Samantha Roseberry; 'Linda James Rockdale County Elections'; 'kamekegrahamrockdalecounty@gmail.com'
Subject: Rockdale June 9 2020 Election Results
Attachments: ROCKDALE COUNTY UNOFFICIAL AND INCOMPLETE ELECTION RESULTS 6_9_20.pdf

Good Morning Everyone, as you all know, there were delays in producing the Election Results from the June 9th General Primary/Nonpartisan/Special and PPP Elections. Well, after several hours, we finally have numbers, per the attached. Please note, these results are unofficial and incomplete. We still have approximately 600 absentee by mail ballots to validate, military ballots and an unknown number of provisional ballots to validate. We will do a final count of votes on Friday, June 12th. We will let you know the time as soon as it is determined.

As of this email, there are two local potential runoff elections: Clerk of Courts and Board of Education Post 5.

Thanks to each of you for your patience and understanding, while we work through learning the new voting system. Please let us know if you have any questions.

To confirm your voter registration and where to vote visit:

- **Secretary of State My Voter Page:** www.mvp.sos.ga.gov
- **Download the Georgia Votes App:** GA Votes
- **Contact the Rockdale Board of Elections Office:**
1261 Commercial Drive, SW, Suite B, Phone: (770) 278-7333
Website: www.rockdalecountyga.gov

Thank you in advance for your part in making voting in our County a SUCCESS! Should you have any questions, please do not hesitate to contact us.

NOTE: IF YOU WISH TO BE REMOVED FROM THIS LIST, PLEASE LET US KNOW.

Cynthia Willingham, Supervisor of Elections
Rockdale County Board of Elections
Ph. (770) 278-7333
Fax (770) 785-5932
"Your Voice...Your Choice...Your Vote"

Cynthia Willingham

From: Cynthia Willingham
Sent: Thursday, June 11, 2020 1:31 PM
To: Scott Tucker; Chris Harvey; Rayburn, Kevin
Cc: Aldren Sadler, Sr.; gerald barger; Karen James (karenjames2507@yahoo.com)
Subject: Additional Training Needed - Tech and Regional Manager

Good Day All, I will be brief, I am not sure if you are aware of the problem experienced in Rockdale County in producing by mail election results on Election Night. Immediately at 7pm on Election Night our tech, Allan, attempted to pull the by mail ballots scanned from ICC over into RTR...it did not work. For some unknown reason, all batches were not coming over into RTR. Allan contacted Stephanie, the Regional Manager, she attempted to assist via text and phone, to no avail. Stephanie arrived at our office to further assist (I am not sure of the time but it was before 8pm). At one point, early on, I saw Allan facetimeing with Mitch. The problem was not resolved until 1:00am, by this time, out of frustration, all candidates had left except one. It should not have taken 6 hours to produce these results...but it did...why? I spoke with Scott on Saturday, June 6th, I again expressed concerns and were given assurances by Scott that the Tech would have all that is needed to support us on Election Night...that did not happen.

I sent an email to each of you on June 2nd expressing my concerns with scanning of ballots; I sent an email to each of you Election Night requesting assistance, no response to my email.

I am making the following request, with hopes that I will get a timely response. REQUEST: The Rockdale Board of Elections and I are requesting that the Tech and Regional Manager be immediately provided with additional training on the ICC and RTR. This training needs to be provided prior to us beginning the L&A preparations for the Runoff Election, so that we can practice the procedures in preparation for the runoff election (ensuring we are prepared and ready on Election Night). As Scott knows, during the scanning of the by mail ballots last week, our Tech, purged the scanned ballots, not once, but twice on two different days. We had to start over and rescan

the ballots, because our Tech, did not know to back up the scanned batches. This is primarily due to a lack of training. I requested from Scott, a checklist that the Techs should follow, so that I can ensure that we are doing what's needed to be able to produce results timely on Election Night. This is our reason for stating more training is needed to prevent these issues from reoccurring for the runoff election.

Chris, per your Buzz request this morning, at a later date, I will be providing a detailed report of things that went well and those we can improve upon.

We just want to ensure that we are all doing all we can to ensure elections are successful in Rockdale County and our great State.

Thank each of you and I look forward to your response to this request.

Cynthia Willingham, Supervisor of Elections
Rockdale County Board of Elections
Ph. (770) 278-7333
Fax (770) 785-5932
"Your Voice...Your Choice...Your Vote"

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Fulton Nov. 3

Election Day									
	Trump			Biden			Jorgensen		
Precinct	Original Machine Count	Recount Machine Count	Hand Count Audit	Original Machine Count	Recount Machine Count	Hand Count Audit	Original Machine Count	Recount Machine Count	Hand Count Audit
06J/ Missett	46	46	Not available	73	72	not available	7	7	not available
06L1/ Forney	24	24	Not available	27	27	not available	2	2	not available
08H/ Martin	90	90	90	42	42	42	5	5	5
SS06/ Nakamura	51	51	Not available	38	38	not available	2	2	not available
SS11D/ Roberts	21	21	not available	6	6	not available	0	0	not available
Early Voting									
	Trump		Biden		Jorgensen				
Precinct	Original Machine Count	Recount Machine Count	Original Machine Count	Recount Machine Count	Original Machine Count	Recount Machine Count			
06J/ Missett	198	198	1036	1033	15	15			
06L1/ Forney	96	96	366	365	6	6			
08H/ Martin	654	653	574	569	6	6			
SS06/ Nakamura	401	399	413	412	7	7			
SS11D/ Roberts	94	94	93	93	4	4			
Mail Ballots									
	Trump		Biden		Jorgensen				
Precinct	Original Machine Count	Recount Machine Count	Original Machine Count	Recount Machine Count	Original Machine Count	Recount Machine Count			
06J/ Missett	85	85	785	789	8	8			
06L1/ Forney	42	43	232	234	2	2			
08H/ Martin	224	224	483	478	1	1			
SS06/ Nakamura	147	147	288	284	7	7			
SS11D/ Roberts	30	29	73	74	4	4			

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Form **990-EZ****Short Form****Return of Organization Exempt From Income Tax**

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

OMB No 1545-1150

2017**Open to Public Inspection**Department of the Treasury
Internal Revenue Service

▶ Do not enter social security numbers on this form as it may be made public

▶ Go to www.irs.gov/Form990EZ for instructions and the latest information.

A For the 2017 calendar year, or tax year beginning , 2017, and ending , 20	
B Check if applicable	C Name of organization
<input checked="" type="checkbox"/> Address change	COALITION FOR GOOD GOVERNANCE
<input checked="" type="checkbox"/> Name change	
<input type="checkbox"/> Initial return	
<input type="checkbox"/> Final return/terminated	
<input type="checkbox"/> Amended return	
<input type="checkbox"/> Application pending	D Employer identification number
	26-3670783
	E Telephone number
	(719) 256-4140
	F Group Exemption Number ▶
G Accounting Method <input type="checkbox"/> Cash <input checked="" type="checkbox"/> Accrual Other (specify) ▶	H Check <input type="checkbox"/> if the organization is not required to attach Schedule B (Form 990, 990-EZ, or 990-PF)
I Website: ▶ HTTPS://COALITIONFORGOODGOVERNANCE.ORG/	
J Tax-exempt status (check only one) - <input checked="" type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) () (insert no) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527	
K Form of organization <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other	
L Add lines 5b, 6c, and 7b to line 9 to determine gross receipts. If gross receipts are \$200,000 or more, or if total assets (Part II, column (B) below) are \$500,000 or more, file Form 990 instead of Form 990-EZ ▶ \$ 117,700.	

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (see the instructions for Part I)	
Check if the organization used Schedule O to respond to any question in this Part I <input checked="" type="checkbox"/>	
Revenue	
1 Contributions, gifts, grants, and similar amounts received	117,663.
2 Program service revenue including government fees and contracts	
3 Membership dues and assessments	
4 Investment income	37.
5a Gross amount from sale of assets other than inventory	5a
b Less cost or other basis and sales expenses	5b 0.
c Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a)	5c
6 Gaming and fundraising events	
a Gross income from gaming (attach Schedule G if greater than \$15,000)	6a
b Gross income from fundraising events (not including \$ of contributions from fundraising events reported on line 1) (attach Schedule G if the sum of such gross income and contributions exceeds \$15,000)	6b
c Less direct expenses from gaming and fundraising events	6c
d Net income or (loss) from gaming and fundraising events (add lines 6a and 6b and subtract line 6c)	6d
7a Gross sales of inventory, less returns and allowances	7a
b Less cost of goods sold	7b 0.
c Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)	7c
8 Other revenue (describe in Schedule O)	8
9 Total revenue. Add lines 1, 2, 3, 4, 5c, 6d, 7c, and 8	9 117,700.
Expenses	
10 Grants and similar amounts paid (list in Schedule O)	10
11 Benefits paid to or for members	11
12 Salaries, other compensation, and employee benefits	12
13 Professional fees and other payments to independent contractors	13 119,000.
14 Occupancy, rent, utilities, and maintenance	14
15 Printing, publications, postage, and shipping	15
16 Other expenses (describe in Schedule O)	16 2,744.
17 Total expenses. Add lines 10 through 16	17 121,744.
Net Assets	
18 Excess or (deficit) for the year (Subtract line 17 from line 9)	18 -4,044.
19 Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)	19 31,750.
20 Other changes in net assets or fund balances (explain in Schedule O)	20
21 Net assets or fund balances at end of year. Combine lines 18 through 20	21 27,706.

For Paperwork Reduction Act Notice, see the separate instructions

Form **990-EZ** (2017)

JSA

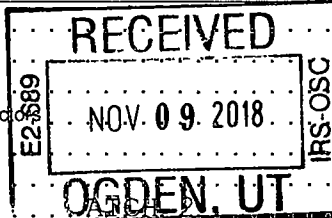
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SCANNED DEC 17 2018

**Exhibit
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Form 990-EZ (2017)

Page 2

Part II **Balance Sheets** (see the instructions for Part II)

Check if the organization used Schedule O to respond to any question in this Part II ☒

		(A) Beginning of year	(B) End of year	
22	Cash, savings, and investments ATTACHMENT 3	31,750.	22	27,706.
23	Land and buildings	0.	23	0.
24	Other assets (describe in Schedule O)	0.	24	0.
25	Total assets	31,750.	25	27,706.
26	Total liabilities (describe in Schedule O)	0.	26	0.
27	Net assets or fund balances (line 27 of column (B) must agree with line 21) . .	31,750.	27	27,706.

Part III **Statement of Program Service Accomplishments** (see the instructions for Part III)

Check if the organization used Schedule O to respond to any question in this Part III . . . ☒ X

What is the organization's primary exempt purpose? ATTACHMENT 4

Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. In a clear and concise manner, describe the services provided, the number of persons benefited, and other relevant information for each program title.

Expenses

(Required for section 501(c)(3) and 501(c)(4) organizations, optional for others)

28	ATTACHMENT 5		
	(Grants \$) If this amount includes foreign grants, check here ▶	28a	68,064.
29	ATTACHMENT 6		
	(Grants \$) If this amount includes foreign grants, check here ▶	29a	26,063.
30	SUPPORTED RIGHTS OF ALL CITIZENS TO ACCESS ELECTION RECORDS. PAID FOR VOTING SYSTEMS COMPUTER EXPERTS TO IDENTIFY AND TESTIFY ON SECURITY LAPSES IN THE GA ELECTIONS SYSTEM.		
	(Grants \$) If this amount includes foreign grants, check here ▶	30a	2,759.
31	Other program services (describe in Schedule O)		
	(Grants \$) If this amount includes foreign grants, check here ▶	31a	
32	Total program service expenses (add lines 28a through 31a) ▶	32	96,886.

Part IV List of Officers, Directors, Trustees, and Key Employees (list each one even if not compensated - see the instructions for Part IV)

Check if the organization used Schedule O to respond to any question in this Part IV ☐

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Part V Other Information (Note the Schedule A and personal benefit contract statement requirements in the instructions for Part V.) Check if the organization used Schedule O to respond to any question in this Part V. ☐

	Yes	No
33 Did the organization engage in any significant activity not previously reported to the IRS? If "Yes," provide a detailed description of each activity in Schedule O	33	X
34 Were any significant changes made to the organizing or governing documents? If "Yes," attach a conformed copy of the amended documents if they reflect a change to the organization's name. Otherwise, explain the change on Schedule O (see instructions)	34	X
35a Did the organization have unrelated business gross income of \$1,000 or more during the year from business activities (such as those reported on lines 2, 6a, and 7a, among others)?	35a	X
b If "Yes," to line 35a, has the organization filed a Form 990-T for the year? If "No," provide an explanation in Schedule O	35b	
c Was the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization subject to section 6033(e) notice, reporting, and proxy tax requirements during the year? If "Yes," complete Schedule C, Part III	35c	X
36 Did the organization undergo a liquidation, dissolution, termination, or significant disposition of net assets during the year? If "Yes," complete applicable parts of Schedule N	36	X
37a Enter amount of political expenditures, direct or indirect, as described in the instructions ▶ 37a		
b Did the organization file Form 1120-POL for this year?	37b	X
38a Did the organization borrow from, or make any loans to, any officer, director, trustee, or key employee or were any such loans made in a prior year and still outstanding at the end of the tax year covered by this return?	38a	X
b If "Yes," complete Schedule L, Part II and enter the total amount involved	38b	
39 Section 501(c)(7) organizations Enter		
a Initiation fees and capital contributions included on line 9	39a	
b Gross receipts, included on line 9, for public use of club facilities	39b	
40a Section 501(c)(3) organizations Enter amount of tax imposed on the organization during the year under section 4911 ▶ 0, section 4912 ▶ 0, section 4955 ▶ 0.		
b Section 501(c)(3), 501(c)(4), and 501(c)(29) organizations Did the organization engage in any section 4958 excess benefit transaction during the year, or did it engage in an excess benefit transaction in a prior year that has not been reported on any of its prior Forms 990 or 990-EZ? If "Yes," complete Schedule L, Part I	40b	X
c Section 501(c)(3), 501(c)(4), and 501(c)(29) organizations Enter amount of tax imposed on organization managers or disqualified persons during the year under sections 4912, 4955, and 4958. ▶ 0.		
d Section 501(c)(3), 501(c)(4), and 501(c)(29) organizations Enter amount of tax on line 40c reimbursed by the organization ▶ 0.		
e All organizations At any time during the tax year, was the organization a party to a prohibited tax shelter transaction? If "Yes," complete Form 8886-T	40e	X
41 List the states with which a copy of this return is filed ▶		
42a The organization's books are in care of ▶ LISA CYRIACKS Telephone no ▶ 719-256-4140		
Located at ▶ 1520 CRESS CT BOULDER, CO ZIP + 4 ▶ 80304		
b At any time during the calendar year, did the organization have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? If "Yes," enter the name of the foreign country ▶	42b	X
See the instructions for exceptions and filing requirements for FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)		
c At any time during the calendar year, did the organization maintain an office outside the United States? If "Yes," enter the name of the foreign country ▶	42c	X
43 Section 4947(a)(1) nonexempt charitable trusts filing Form 990-EZ in lieu of Form 1041 - Check here. and enter the amount of tax-exempt interest received or accrued during the tax year. ▶ 43		
44a Did the organization maintain any donor advised funds during the year? If "Yes," Form 990 must be completed instead of Form 990-EZ	44a	X
b Did the organization operate one or more hospital facilities during the year? If "Yes," Form 990 must be completed instead of Form 990-EZ	44b	X
c Did the organization receive any payments for indoor tanning services during the year?	44c	X
d If "Yes" to line 44c, has the organization filed a Form 720 to report these payments? If "No," provide an explanation in Schedule O	44d	
45a Did the organization have a controlled entity within the meaning of section 512(b)(13)?	45a	X
b Did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)? If "Yes," Form 990 and Schedule R may need to be completed instead of Form 990-EZ (see instructions).	45b	

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	Yes	No
46 Did the organization engage, directly or indirectly, in political campaign activities on behalf of or in opposition to candidates for public office? If "Yes," complete Schedule C, Part I.	46	X

Part VI Section 501(c)(3) organizations only

All section 501(c)(3) organizations must answer questions 47-49b and 52, and complete the tables for lines 50 and 51.

Check if the organization used Schedule O to respond to any question in this Part VI ☐

	Yes	No
47 Did the organization engage in lobbying activities or have a section 501(h) election in effect during the tax year? If "Yes," complete Schedule C, Part II	47	X
48 Is the organization a school as described in section 170(b)(1)(A)(ii)? If "Yes," complete Schedule E	48	X
49a Did the organization make any transfers to an exempt non-charitable related organization?	49a	X
b If "Yes," was the related organization a section 527 organization?	49b	

50 Complete this table for the organization's five highest compensated employees (other than officers, directors, trustees, and key employees) who each received more than \$100,000 of compensation from the organization. If there is none, enter "None"

(a) Name and title of each employee	(b) Average hours per week devoted to position	(c) Reportable compensation (Forms W-2/1099-MISC)	(d) Health benefits, contributions to employee benefit plans, and deferred compensation	(e) Estimated amount of other compensation
NONE				

f Total number of other employees paid over \$100,000 **0**

51 Complete this table for the organization's five highest compensated independent contractors who each received more than \$100,000 of compensation from the organization. If there is none, enter "None"

(a) Name and business address of each independent contractor	(b) Type of service	(c) Compensation
NONE		

d Total number of other independent contractors each receiving over \$100,000 **0**

52 Did the organization complete Schedule A? **Note:** All section 501(c)(3) organizations must attach a completed Schedule A ☒ Yes ☐ No

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

Sign Here	Signature of officer <i>Lisa U. Cyriacus</i>	Date <i>10-30-18</i>
	Type or print name and title <i>President</i>	

Paid Preparer Use Only	Print/Type preparer's name ADAM R SMITH CPA	Preparer's signature <i>Adam Smith</i>	Date <i>10-23-18</i>	Check <input type="checkbox"/> if self-employed	PTIN P00958966
	Firm's name BKD, LLP	Firm's EIN 44-0160260		Phone no 719 471-4290	
	Firm's address 111 SOUTH TEJON, SUITE 800				

May the IRS discuss this return with the preparer shown above? See instructions ☒ Yes ☐ No

COLORADO SPRINGS, CO 80903-9848

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SCHEDULE A
(Form 990 or 990-EZ)Department of the Treasury
Internal Revenue Service**Public Charity Status and Public Support**

Complete if the organization is a section 501(c)(3) organization or a section 4947(a)(1) nonexempt charitable trust

▶ Attach to Form 990 or Form 990-EZ

▶ Go to www.irs.gov/Form990 for instructions and the latest information.

OMB No. 1545-0047

2017**Open to Public Inspection**

Name of the organization

COALITION FOR GOOD GOVERNANCE

Employer identification number

26-3670783

Part I Reason for Public Charity Status (All organizations must complete this part.) See instructions

The organization is not a private foundation because it is: (For lines 1 through 12, check only one box.)

- 1 ☐ A church, convention of churches, or association of churches described in **section 170(b)(1)(A)(i).**
- 2 ☐ A school described in **section 170(b)(1)(A)(ii).** (Attach Schedule E (Form 990 or 990-EZ).)
- 3 ☐ A hospital or a cooperative hospital service organization described in **section 170(b)(1)(A)(iii).**
- 4 ☐ A medical research organization operated in conjunction with a hospital described in **section 170(b)(1)(A)(iii).** Enter the hospital's name, city, and state _____
- 5 ☐ An organization operated for the benefit of a college or university owned or operated by a governmental unit described in **section 170(b)(1)(A)(iv).** (Complete Part II.)
- 6 ☐ A federal, state, or local government or governmental unit described in **section 170(b)(1)(A)(v).**
- 7 ☒ An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in **section 170(b)(1)(A)(vi).** (Complete Part II.)
- 8 ☐ A community trust described in **section 170(b)(1)(A)(vi).** (Complete Part II.)
- 9 ☐ An agricultural research organization described in **section 170(b)(1)(A)(ix)** operated in conjunction with a land-grant college or university or a non-land-grant college of agriculture (see instructions). Enter the name, city, and state of the college or university _____
- 10 ☐ An organization that normally receives (1) more than 33 1/3 % of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions - subject to certain exceptions, and (2) no more than 33 1/3 % of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See **section 509(a)(2).** (Complete Part III.)
- 11 ☐ An organization organized and operated exclusively to test for public safety. See **section 509(a)(4).**
- 12 ☐ An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in **section 509(a)(1)** or **section 509(a)(2)**. See **section 509(a)(3).** Check the box in lines 12a through 12d that describes the type of supporting organization and complete lines 12e, 12f, and 12g.
- a ☐ **Type I.** A supporting organization operated, supervised, or controlled by its supported organization(s), typically by giving the supported organization(s) the power to regularly appoint or elect a majority of the directors or trustees of the supporting organization. **You must complete Part IV, Sections A and B.**
- b ☐ **Type II.** A supporting organization supervised or controlled in connection with its supported organization(s), by having control or management of the supporting organization vested in the same persons that control or manage the supported organization(s). **You must complete Part IV, Sections A and C.**
- c ☐ **Type III functionally integrated.** A supporting organization operated in connection with, and functionally integrated with, its supported organization(s) (see instructions). **You must complete Part IV, Sections A, D, and E.**
- d ☐ **Type III non-functionally integrated.** A supporting organization operated in connection with its supported organization(s) that is not functionally integrated. The organization generally must satisfy a distribution requirement and an attentiveness requirement (see instructions). **You must complete Part IV, Sections A and D, and Part V.**
- e ☐ Check this box if the organization received a written determination from the IRS that it is a Type I, Type II, Type III functionally integrated, or Type III non-functionally integrated supporting organization.

f Enter the number of supported organizations.

g Provide the following information about the supported organization(s)

(i) Name of supported organization	(ii) EIN	(iii) Type of organization (described on lines 1-10 above (see instructions))	(iv) Is the organization listed in your governing document?		(v) Amount of monetary support (see instructions)	(vi) Amount of other support (see instructions)
			Yes	No		
(A)						
(B)						
(C)						
(D)						
(E)						
Total						

For Paperwork Reduction Act Notice, see the Instructions for Form 990 or 990-EZ.

Schedule A (Form 990 or 990-EZ) 2017

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Schedule A (Form 990 or 990-EZ) 2017

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Part II Support Schedule for Organizations Described in Sections 170(b)(1)(A)(iv) and 170(b)(1)(A)(vi)
 (Complete only if you checked the box on line 5, 7, or 8 of Part I or if the organization failed to qualify under Part III. If the organization fails to qualify under the tests listed below, please complete Part III.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ►	(a) 2013	(b) 2014	(c) 2015	(d) 2016	(e) 2017	(f) Total
1 Gifts, grants, contributions, and membership fees received (Do not include any "unusual grants")	44,932	15,150	6,010	0	117,663	183,755
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						0
3 The value of services or facilities furnished by a governmental unit to the organization without charge						0
4 Total. Add lines 1 through 3.	44,932	15,150	6,010		117,663	183,755
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f).						93,949
6 Public support. Subtract line 5 from line 4						89,806

Section B. Total Support

Calendar year (or fiscal year beginning in) ►	(a) 2013	(b) 2014	(c) 2015	(d) 2016	(e) 2017	(f) Total
7 Amounts from line 4.	44,932	15,150	6,010		117,663	183,755
8 Gross income from interest, dividends, payments received on securities loans, rents, royalties, and income from similar sources		174	186	34	37	431
9 Net income from unrelated business activities, whether or not the business is regularly carried on						0
10 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part VI)						0
11 Total support. Add lines 7 through 10						184,186
12 Gross receipts from related activities, etc. (see instructions)					12	
13 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here						<input type="checkbox"/>

Section C. Computation of Public Support Percentage

14 Public support percentage for 2017 (line 6, column (f) divided by line 11, column (f)).	14	48.76%
15 Public support percentage from 2016 Schedule A, Part II, line 14	15	99.41%
16a 33 1/3% support test - 2017. If the organization did not check the box on line 13, and line 14 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization.		<input checked="" type="checkbox"/>
b 33 1/3% support test - 2016. If the organization did not check a box on line 13 or 16a, and line 15 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization		<input type="checkbox"/>
17a 10%-facts-and-circumstances test - 2017. If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part VI how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization.		<input type="checkbox"/>
b 10%-facts-and-circumstances test - 2016. If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part VI how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization.		<input type="checkbox"/>
18 Private foundation. If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions		<input type="checkbox"/>

Schedule A (Form 990 or 990-EZ) 2017

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Part III Support Schedule for Organizations Described in Section 509(a)(2)

(Complete only if you checked the box on line 10 of Part I or if the organization failed to qualify under Part II
If the organization fails to qualify under the tests listed below, please complete Part II.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ►	(a) 2013	(b) 2014	(c) 2015	(d) 2016	(e) 2017	(f) Total
1 Gifts, grants, contributions, and membership fees received (Do not include any "unusual grants.")						
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose						
3 Gross receipts from activities that are not an unrelated trade or business under section 513						
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
5 The value of services or facilities furnished by a governmental unit to the organization without charge						
6 Total. Add lines 1 through 5						
7a Amounts included on lines 1, 2, and 3 received from disqualified persons						
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of \$5,000 or 1% of the amount on line 13 for the year						
c Add lines 7a and 7b.						
8 Public support (Subtract line 7c from line 6)						

Section B. Total Support

Calendar year (or fiscal year beginning in) ►	(a) 2013	(b) 2014	(c) 2015	(d) 2016	(e) 2017	(f) Total
9 Amounts from line 6.						
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties, and income from similar sources.						
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975						
c Add lines 10a and 10b						
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on.						
12 Other income (Do not include gain or loss from the sale of capital assets (Explain in Part VI)						
13 Total support (Add lines 9, 10c, 11, and 12)						

14 **First five years** If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and **stop here**. ☐

Section C. Computation of Public Support Percentage

15 Public support percentage for 2017 (line 8, column (f) divided by line 13, column (f)).	15	%
16 Public support percentage from 2016 Schedule A, Part III, line 15.	16	%

Section D. Computation of Investment Income Percentage

17 Investment income percentage for 2017 (line 10c, column (f) divided by line 13, column (f))	17	%
18 Investment income percentage from 2016 Schedule A, Part III, line 17	18	%

19a **33 1/3% support tests - 2017** If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and **stop here**. The organization qualifies as a publicly supported organization. ► ☐

b **33 1/3% support tests - 2016** If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3%, and line 18 is not more than 33 1/3%, check this box and **stop here**. The organization qualifies as a publicly supported organization. ► ☐

20 **Private foundation** If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions. ► ☐

Part IV Supporting Organizations

(Complete only if you checked a box in line 12 on Part I. If you checked 12a of Part I, complete Sections A and B. If you checked 12b of Part I, complete Sections A and C. If you checked 12c of Part I, complete Sections A, D, and E. If you checked 12d of Part I, complete Sections A and D, and complete Part V.)

Section A. All Supporting Organizations

	Yes	No
1 Are all of the organization's supported organizations listed by name in the organization's governing documents? If "No," describe in Part VI how the supported organizations are designated. If designated by class or purpose, describe the designation. If historic and continuing relationship, explain.		
2 Did the organization have any supported organization that does not have an IRS determination of status under section 509(a)(1) or (2)? If "Yes," explain in Part VI how the organization determined that the supported organization was described in section 509(a)(1) or (2).		
3a Did the organization have a supported organization described in section 501(c)(4), (5), or (6)? If "Yes," answer (b) and (c) below.		
b Did the organization confirm that each supported organization qualified under section 501(c)(4), (5), or (6) and satisfied the public support tests under section 509(a)(2)? If "Yes," describe in Part VI when and how the organization made the determination.		
c Did the organization ensure that all support to such organizations was used exclusively for section 170(c)(2)(B) purposes? If "Yes," explain in Part VI what controls the organization put in place to ensure such use.		
4a Was any supported organization not organized in the United States ("foreign supported organization")? If "Yes," and if you checked 12a or 12b in Part I, answer (b) and (c) below.		
b Did the organization have ultimate control and discretion in deciding whether to make grants to the foreign supported organization? If "Yes," describe in Part VI how the organization had such control and discretion despite being controlled or supervised by or in connection with its supported organizations.		
c Did the organization support any foreign supported organization that does not have an IRS determination under sections 501(c)(3) and 509(a)(1) or (2)? If "Yes," explain in Part VI what controls the organization used to ensure that all support to the foreign supported organization was used exclusively for section 170(c)(2)(B) purposes.		
5a Did the organization add, substitute, or remove any supported organizations during the tax year? If "Yes," answer (b) and (c) below (if applicable). Also, provide detail in Part VI , including (i) the names and EIN numbers of the supported organizations added, substituted, or removed, (ii) the reasons for each such action, (iii) the authority under the organization's organizing document authorizing such action, and (iv) how the action was accomplished (such as by amendment to the organizing document).		
b Type I or Type II only Was any added or substituted supported organization part of a class already designated in the organization's organizing document?		
c Substitutions only Was the substitution the result of an event beyond the organization's control?		
6 Did the organization provide support (whether in the form of grants or the provision of services or facilities) to anyone other than (i) its supported organizations, (ii) individuals that are part of the charitable class benefited by one or more of its supported organizations, or (iii) other supporting organizations that also support or benefit one or more of the filing organization's supported organizations? If "Yes," provide detail in Part VI .		
7 Did the organization provide a grant, loan, compensation, or other similar payment to a substantial contributor (defined in section 4958(c)(3)(C)), a family member of a substantial contributor, or a 35% controlled entity with regard to a substantial contributor? If "Yes," complete Part I of Schedule L (Form 990 or 990-EZ).		
8 Did the organization make a loan to a disqualified person (as defined in section 4958) not described in line 7? If "Yes," complete Part I of Schedule L (Form 990 or 990-EZ).		
9a Was the organization controlled directly or indirectly at any time during the tax year by one or more disqualified persons as defined in section 4946 (other than foundation managers and organizations described in section 509(a)(1) or (2))? If "Yes," provide detail in Part VI .		
b Did one or more disqualified persons (as defined in line 9a) hold a controlling interest in any entity in which the supporting organization had an interest? If "Yes," provide detail in Part VI .		
c Did a disqualified person (as defined in line 9a) have an ownership interest in, or derive any personal benefit from, assets in which the supporting organization also had an interest? If "Yes," provide detail in Part VI .		
10a Was the organization subject to the excess business holdings rules of section 4943 because of section 4943(f) (regarding certain Type II supporting organizations, and all Type III non-functionally integrated supporting organizations)? If "Yes," answer 10b below.		
b Did the organization have any excess business holdings in the tax year? (Use Schedule C, Form 4720, to determine whether the organization had excess business holdings.)		

Part IV Supporting Organizations (continued)

	Yes	No
11 Has the organization accepted a gift or contribution from any of the following persons?		
a A person who directly or indirectly controls, either alone or together with persons described in (b) and (c) below, the governing body of a supported organization?	11a	
b A family member of a person described in (a) above?	11b	
c A 35% controlled entity of a person described in (a) or (b) above? If "Yes" to a, b, or c, provide detail in Part VI .	11c	

Section B. Type I Supporting Organizations

	Yes	No
1 Did the directors, trustees, or membership of one or more supported organizations have the power to regularly appoint or elect at least a majority of the organization's directors or trustees at all times during the tax year? If "No," describe in Part VI how the supported organization(s) effectively operated, supervised, or controlled the organization's activities. If the organization had more than one supported organization, describe how the powers to appoint and/or remove directors or trustees were allocated among the supported organizations and what conditions or restrictions, if any, applied to such powers during the tax year.	1	
2 Did the organization operate for the benefit of any supported organization other than the supported organization(s) that operated, supervised, or controlled the supporting organization? If "Yes," explain in Part VI how providing such benefit carried out the purposes of the supported organization(s) that operated, supervised, or controlled the supporting organization.	2	

Section C. Type II Supporting Organizations

	Yes	No
1 Were a majority of the organization's directors or trustees during the tax year also a majority of the directors or trustees of each of the organization's supported organization(s)? If "No," describe in Part VI how control or management of the supporting organization was vested in the same persons that controlled or managed the supported organization(s).	1	

Section D. All Type III Supporting Organizations

	Yes	No
1 Did the organization provide to each of its supported organizations, by the last day of the fifth month of the organization's tax year, (i) a written notice describing the type and amount of support provided during the prior tax year, (ii) a copy of the Form 990 that was most recently filed as of the date of notification, and (iii) copies of the organization's governing documents in effect on the date of notification, to the extent not previously provided?	1	
2 Were any of the organization's officers, directors, or trustees either (i) appointed or elected by the supported organization(s) or (ii) serving on the governing body of a supported organization? If "No," explain in Part VI how the organization maintained a close and continuous working relationship with the supported organization(s).	2	
3 By reason of the relationship described in (2), did the organization's supported organizations have a significant voice in the organization's investment policies and in directing the use of the organization's income or assets at all times during the tax year? If "Yes," describe in Part VI the role the organization's supported organizations played in this regard.	3	

Section E. Type III Functionally Integrated Supporting Organizations

	Yes	No
1 Check the box next to the method that the organization used to satisfy the Integral Part Test during the year (see instructions).		
a <input type="checkbox"/> The organization satisfied the Activities Test. Complete line 2 below.		
b <input type="checkbox"/> The organization is the parent of each of its supported organizations. Complete line 3 below.		
c <input type="checkbox"/> The organization supported a governmental entity. Describe in Part VI how you supported a government entity (see instructions).		
2 Activities Test. Answer (a) and (b) below.		
a Did substantially all of the organization's activities during the tax year directly further the exempt purposes of the supported organization(s) to which the organization was responsive? If "Yes," then in Part VI identify those supported organizations and explain how these activities directly furthered their exempt purposes, how the organization was responsive to those supported organizations, and how the organization determined that these activities constituted substantially all of its activities.	2a	
b Did the activities described in (a) constitute activities that, but for the organization's involvement, one or more of the organization's supported organization(s) would have been engaged in? If "Yes," explain in Part VI the reasons for the organization's position that its supported organization(s) would have engaged in these activities but for the organization's involvement.	2b	
3 Parent of Supported Organizations. Answer (a) and (b) below.		
a Did the organization have the power to regularly appoint or elect a majority of the officers, directors, or trustees of each of the supported organizations? Provide details in Part VI .	3a	
b Did the organization exercise a substantial degree of direction over the policies, programs, and activities of each of its supported organizations? If "Yes," describe in Part VI the role played by the organization in this regard.	3b	

Part V Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations

1 ☐ Check here if the organization satisfied the Integral Part Test as a qualifying trust on Nov. 20, 1970 (explain in Part VI) **See instructions.** All other Type III non-functionally integrated supporting organizations must complete Sections A through E

Section A - Adjusted Net Income		(A) Prior Year	(B) Current Year (optional)
1 Net short-term capital gain	1		
2 Recoveries of prior-year distributions	2		
3 Other gross income (see instructions)	3		
4 Add lines 1 through 3	4		
5 Depreciation and depletion	5		
6 Portion of operating expenses paid or incurred for production or collection of gross income or for management, conservation, or maintenance of property held for production of income (see instructions)	6		
7 Other expenses (see instructions)	7		
8 Adjusted Net Income (subtract lines 5, 6, and 7 from line 4)	8		
Section B - Minimum Asset Amount		(A) Prior Year	(B) Current Year (optional)
1 Aggregate fair market value of all non-exempt-use assets (see instructions for short tax year or assets held for part of year)			
a Average monthly value of securities	1a		
b Average monthly cash balances	1b		
c Fair market value of other non-exempt-use assets	1c		
d Total (add lines 1a, 1b, and 1c)	1d		
e Discount claimed for blockage or other factors (explain in detail in Part VI)			
2 Acquisition indebtedness applicable to non-exempt-use assets	2		
3 Subtract line 2 from line 1d	3		
4 Cash deemed held for exempt use. Enter 1-1/2% of line 3 (for greater amount, see instructions)	4		
5 Net value of non-exempt-use assets (subtract line 4 from line 3)	5		
6 Multiply line 5 by .035	6		
7 Recoveries of prior-year distributions	7		
8 Minimum Asset Amount (add line 7 to line 6)	8		
Section C - Distributable Amount			Current Year
1 Adjusted net income for prior year (from Section A, line 8, Column A)	1		
2 Enter 85% of line 1	2		
3 Minimum asset amount for prior year (from Section B, line 8, Column A)	3		
4 Enter greater of line 2 or line 3	4		
5 Income tax imposed in prior year	5		
6 Distributable Amount. Subtract line 5 from line 4, unless subject to emergency temporary reduction (see instructions)	6		
7 <input type="checkbox"/> Check here if the current year is the organization's first as a non-functionally integrated Type III supporting organization (see instructions)			

Schedule A (Form 990 or 990-EZ) 2017

COALITION FOR GOOD GOVERNANCE

26-3670783

Schedule A (Form 990 or 990-EZ) 2017

Page 7

Part V Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations (continued)

Section D - Distributions		Current Year	
1	Amounts paid to supported organizations to accomplish exempt purposes		
2	Amounts paid to perform activity that directly furthers exempt purposes of supported organizations, in excess of income from activity		
3	Administrative expenses paid to accomplish exempt purposes of supported organizations		
4	Amounts paid to acquire exempt-use assets		
5	Qualified set-aside amounts (prior IRS approval required)		
6	Other distributions (describe in Part VI) See instructions		
7	Total annual distributions. Add lines 1 through 6		
8	Distributions to attentive supported organizations to which the organization is responsive (provide details in Part VI) See instructions		
9	Distributable amount for 2017 from Section C, line 6		
10	Line 8 amount divided by Line 9 amount		

Section E - Distribution Allocations (see instructions)	(i) Excess Distributions	(ii) Underdistributions Pre-2017	(iii) Distributable Amount for 2017
1 Distributable amount for 2017 from Section C, line 6			
2 Underdistributions, if any, for years prior to 2017 (reasonable cause required-explain in Part VI) See instructions			
3 Excess distributions carryover, if any, to 2017			
a			
b From 2013			
c From 2014			
d From 2015			
e From 2016			
f Total of lines 3a through e			
g Applied to underdistributions of prior years			
h Applied to 2017 distributable amount			
i Carryover from 2012 not applied (see instructions)			
j Remainder Subtract lines 3g, 3h, and 3i from 3f			
4 Distributions for 2017 from Section D, line 7 \$			
a Applied to underdistributions of prior years			
b Applied to 2017 distributable amount			
c Remainder Subtract lines 4a and 4b from 4			
5 Remaining underdistributions for years prior to 2017, if any Subtract lines 3g and 4a from line 2 For result greater than zero, explain in Part VI See instructions			
6 Remaining underdistributions for 2017 Subtract lines 3h and 4b from line 1 For result greater than zero, explain in Part VI See instructions			
7 Excess distributions carryover to 2018 Add lines 3j and 4c			
8 Breakdown of line 7			
a Excess from 2013			
b Excess from 2014			
c Excess from 2015			
d Excess from 2016			
e Excess from 2017			

Schedule A (Form 990 or 990-EZ) 2017

COALITION FOR GOOD GOVERNANCE

26-3670783

Schedule A (Form 990 or 990-EZ) 2017

Page **8****Part VI**

Supplemental Information. Provide the explanations required by Part II, line 10; Part II, line 17a or 17b, Part III, line 12, Part IV, Section A, lines 1, 2, 3b, 3c, 4b, 4c, 5a, 6, 9a, 9b, 9c, 11a, 11b, and 11c; Part IV, Section B, lines 1 and 2, Part IV, Section C, line 1; Part IV, Section D, lines 2 and 3; Part IV, Section E, lines 1c, 2a, 2b, 3a and 3b; Part V, line 1; Part V, Section B, line 1e; Part V, Section D, lines 5, 6, and 8, and Part V, Section E, lines 2, 5, and 6. Also complete this part for any additional information. (See instructions.)

SCHEDULE O
(Form 990 or 990-EZ)Department of the Treasury
Internal Revenue Service

Name of the organization

COALITION FOR GOOD GOVERNANCE

Supplemental Information to Form 990 or 990-EZComplete to provide information for responses to specific questions on
Form 990 or 990-EZ or to provide any additional information.

▶ Attach to Form 990 or 990-EZ

▶ Information about Schedule O (Form 990 or 990-EZ) and its instructions is at www.irs.gov/form990

OMB No 1545-0047

2017**Open to Public
Inspection**

Employer identification number

26-3670783

ATTACHMENT 1FORM 990EZ, PART I - INVESTMENT INCOMEDESCRIPTIONAMOUNT

INTEREST INCOME

37.

TOTAL

37.

ATTACHMENT 2FORM 990EZ, PART I - OTHER EXPENSES

TRAVEL

1,832.

INSURANCE

650.

MISCELLANEOUS

262.

TOTAL

2,744.

ATTACHMENT 3FORM 990EZ, PART II - CASH, SAVINGS AND INVESTMENTSDESCRIPTIONBEGINNING
OF YEAREND
OF YEAR

CASH

31,750.

27,706.

TOTALS

31,750.

27,706.

ATTACHMENT 4FORM 990EZ, PART III - ORGANIZATION'S PRIMARY EXEMPT PURPOSE

THE INTERESTS OF COALITION FOR GOOD GOVERNANCE ARE CONSTITUTIONAL LIBERTIES AND THE INDIVIDUAL RIGHTS OF CITIZENS, WITH EMPHASIS ON FIRST AMENDMENT RIGHT, ELECTIONS, GOVERNMENT TRANSPARENCY AND ACCOUNTABILITY, OPEN RECORDS AND OPEN MEETINGS, DUE PROCESS, AND EQUAL PROTECTION OF THE LAWS. IT WILL ENGAGE IN LITIGATION AS WELL AS PROVIDE MONETARY SUPPORT FOR LEGAL EXPENSES TO OTHER ORGANIZATIONS ENGAGED IN LITIGATION ON THESE ISSUES. IT WILL ALSO INFORM LEGISLATIVE POLICY AND PERFORM INDEPENDENT RESEARCH AND ANALYSIS IN THE FOREGOING SUBJECT AREAS. LASTLY, THE ORGANIZATION WILL USE GENERALLY AVAILABLE MEANS OF EDUCATION AND COMMUNICATION TO ILLUMINATE AND SHARE PUBLIC DEBATES ESPECIALLY AS ITS SUBJECTS OF INTEREST APPEAR TO BEAR UPON THE CITIZENS OF COLORADO AND THE REGION.

Schedule O (Form 990 or 990-EZ) 2017

Page 2

Name of the organization

Employer identification number

COALITION FOR GOOD GOVERNANCE

26-3670783

ATTACHMENT 5

FORM 990EZ, PART III - STATEMENT OF PROGRAM SERVICE ACCOMPLISHMENTSPROGRAM SERVICE ACCOMPLISHMENT 1

ADVOCATING FOR VOTERS' RIGHT TO A VERIFIABLE ELECTION. CGG
LITIGATED IN FEDERAL COURT (NORTHERN DISTRICT OF GEORGIA) AGAINST
GEORGIA'S USE OF AN UNVERIFIABLE PAPERLESS TOUCHSCREEN SYSTEM AND
EDUCATED GEORGIA VOTERS ON THE IMPORTANCE OF USING AN ELECTION
SYSTEM THAT EITHER INCLUDES PAPER BALLOTS OR CREATES A PAPER
TRAIL.

ATTACHMENT 6

PROGRAM SERVICE ACCOMPLISHMENT 2

WORKED TO EDUCATE VOTERS ON THE IMPORTANCE OF ELECTION SECURITY
USING THE EXAMPLE OF THE GEORGIA SPECIAL ELECTION (CD6) AND
EXPOSING THE VULNERABILITY OF THE KSU CENTER FOR ELECTION SYSTEMS.
GEORGIA WAS ONE STATE IDENTIFIED BY THE NSA WHERE VOTER
REGISTRATION SYSTEMS WERE COMPROMISED AND VULNERABLE TO HACKING.

efile GRAPHIC print - DO NOT PROCESS

As Filed Data -

DLN: 93493240004169

Case 1:17-cv-02989-AT Document 1565 Filed 01/07/23 Page 559 of 721

Return of Organization Exempt From Income Tax

OMB No 1545-0047

2018

Open to Public Inspection

Form 990

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

Do not enter social security numbers on this form as it may be made public

Go to www.irs.gov/Form990 for instructions and the latest information.

Department of the Treasury
Internal Revenue Service

A For the 2019 calendar year, or tax year beginning 01-01-2018 , and ending 12-31-2018

B Check if applicable

☐ Address change

☐ Name change

☐ Initial return

☐ Final return/terminated

☐ Amended return

☐ Application pending

C Name of organization

Coalition for Good Governance

% LISA CYRIACKS

Doing business as

Number and street (or P O box if mail is not delivered to street address) Room/suite

1520 Cress Ct

City or town, state or province, country, and ZIP or foreign postal code

Boulder, CO 80304

F Name and address of principal officer

LISA CYRIACKS

PO Box 754

Crestone, CO 81131

H(a) Is this a group return for subordinates?

☐ Yes ☒ No

H(b) Are all subordinates included?

☐ Yes ☐ No

If "No," attach a list (see instructions)

H(c) Group exemption number ▶

I Tax-exempt status

☒ 501(c)(3) ☐ 501(c) () ◀(insert no) ☐ 4947(a)(1) or ☐ 527

J Website: ▶

[https //coalitionforgoodgovernance org/](https://coalitionforgoodgovernance.org/)

K Form of organization

☒ Corporation ☐ Trust ☐ Association ☐ Other ▶

L Year of formation

2008

M State of legal domicile

CO

Part I Summary

1 Briefly describe the organization's mission or most significant activities

ADVOCATING FOR VOTERS' RIGHT TO A VERIFIABLE ELECTION EDUCATE VOTERS TO THE IMPORTANCE OF ELECTION SECURITY AND PROTECT VOTERS' RIGHTS TO HAVE BALLOTS COUNTED

2 Check this box ☐ if the organization discontinued its operations or disposed of more than 25% of its net assets

3	Number of voting members of the governing body (Part VI, line 1a)	3	3
4	Number of independent voting members of the governing body (Part VI, line 1b)	4	0
5	Total number of individuals employed in calendar year 2018 (Part V, line 2a)	5	0
6	Total number of volunteers (estimate if necessary)	6	6
7a	Total unrelated business revenue from Part VIII, column (C), line 12	7a	0
7b	Net unrelated business taxable income from Form 990-T, line 34	7b	

Revenue	8	Contributions and grants (Part VIII, line 1h)	Prior Year	Current Year
			117,663	218,953
	9	Program service revenue (Part VIII, line 2g)	0	0
	10	Investment income (Part VIII, column (A), lines 3, 4, and 7d)	37	37
	11	Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)	0	0
	12	Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)	117,700	218,990
Expenses	13	Grants and similar amounts paid (Part IX, column (A), lines 1–3)	0	0
	14	Benefits paid to or for members (Part IX, column (A), line 4)	0	0
	15	Salaries, other compensation, employee benefits (Part IX, column (A), lines 5–10)	0	0
	16a	Professional fundraising fees (Part IX, column (A), line 11e)	0	0
	b	Total fundraising expenses (Part IX, column (D), line 25) ▶0		
	17	Other expenses (Part IX, column (A), lines 11a–11d, 11f–24e)	121,744	193,081
Net Assets or Fund Balances	18	Total expenses Add lines 13–17 (must equal Part IX, column (A), line 25)	121,744	193,081
	19	Revenue less expenses Subtract line 18 from line 12	-4,044	25,909
	20	Total assets (Part X, line 16)	Beginning of Current Year	End of Year
			27,706	53,615
21	Total liabilities (Part X, line 26)	0	0	
22	Net assets or fund balances Subtract line 21 from line 20	27,706	53,615	

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge

Sign Here

Signature of officer

LISA CYRIACKS President

Type or print name and title

2019-08-27

Date

Exhibit

CGG 0007

Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN P00958966
Firm's name ▶ BKD LLP			Firm's EIN ▶	
Firm's address ▶ 111 South Tejon Suite 800			Phone no (719) 471-4290	
Colorado Springs, CO 809039848				

Paid Preparer Use Only

May the IRS discuss this return with the preparer shown above? (see instructions)

☒ Yes ☐ No

For Paperwork Reduction Act Notice, see the separate instructions.

Cat No 11282Y

Form 990 (2018)

Part III

Statement of Program Service Accomplishments

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Check if Schedule O contains a response or note to any line in this Part III ☐**1** Briefly describe the organization's mission

THE INTERESTS OF COALITION FOR GOOD GOVERNANCE ARE CONSTITUTIONAL LIBERTIES AND THE INDIVIDUAL RIGHTS OF CITIZENS, WITH EMPHASIS ON FIRST AMENDMENT RIGHT, ELECTIONS, GOVERNMENT TRANSPARENCY AND ACCOUNTABILITY, OPEN RECORDS AND OPEN MEETINGS, DUE PROCESS, AND EQUAL PROTECTION OF THE LAWS IT WILL ENGAGE IN LITIGATION AS WELL AS PROVIDE MONETARY SUPPORT FOR LEGAL EXPENSES TO OTHER ORGANIZATIONS ENGAGED IN LITIGATION ON THESE ISSUES IT WILL ALSO INFORM LEGISLATIVE POLICY AND PERFORM INDEPENDENT RESEARCH AND ANALYSIS IN THE FOREGOING SUBJECT AREAS LASTLY, THE ORGANIZATION WILL USE GENERALLY AVAILABLE MEANS OF EDUCATION AND COMMUNICATION TO ILLUMINATE AND SHARE PUBLIC DEBATES ESPECIALLY AS ITS SUBJECTS OF INTEREST APPEAR TO BEAR UPON THE CITIZENS OF COLORADO AND THE REGION

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ? ☐ Yes ☒ No

If "Yes," describe these new services on Schedule O

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services? ☐ Yes ☒ No

If "Yes," describe these changes on Schedule O

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported



4a	(Code)	(Expenses \$	102,366	including grants of \$	(Revenue \$)
See Additional Data						

4b	(Code)	(Expenses \$	26,303	including grants of \$	(Revenue \$)
See Additional Data						

4c	(Code)	(Expenses \$	61,123	including grants of \$	(Revenue \$)
See Additional Data						

4d	Other program services (Describe in Schedule O)					
	(Expenses \$		including grants of \$		(Revenue \$)

4e	Total program service expenses ▶	189,792
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	Yes	No
1 Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? If "Yes," complete Schedule A 	1 Yes	
2 Is the organization required to complete Schedule B, Schedule of Contributors (see instructions)? 	2 Yes	
3 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? If "Yes," complete Schedule C, Part I	3	No
4 Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? If "Yes," complete Schedule C, Part II	4	No
5 Is the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization that receives membership dues, assessments, or similar amounts as defined in Revenue Procedure 98-19? If "Yes," complete Schedule C, Part III	5	
6 Did the organization maintain any donor advised funds or any similar funds or accounts for which donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts? If "Yes," complete Schedule D, Part I	6	No
7 Did the organization receive or hold a conservation easement, including easements to preserve open space, the environment, historic land areas, or historic structures? If "Yes," complete Schedule D, Part II	7	No
8 Did the organization maintain collections of works of art, historical treasures, or other similar assets? If "Yes," complete Schedule D, Part III	8	No
9 Did the organization report an amount in Part X, line 21 for escrow or custodial account liability, serve as a custodian for amounts not listed in Part X, or provide credit counseling, debt management, credit repair, or debt negotiation services? If "Yes," complete Schedule D, Part IV	9	No
10 Did the organization, directly or through a related organization, hold assets in temporarily restricted endowments, permanent endowments, or quasi-endowments? If "Yes," complete Schedule D, Part V	10	No
11 If the organization's answer to any of the following questions is "Yes," then complete Schedule D, Parts VI, VII, VIII, IX, or X as applicable		
a Did the organization report an amount for land, buildings, and equipment in Part X, line 10? If "Yes," complete Schedule D, Part VI	11a	No
b Did the organization report an amount for investments—other securities in Part X, line 12 that is 5% or more of its total assets reported in Part X, line 16? If "Yes," complete Schedule D, Part VII	11b	No
c Did the organization report an amount for investments—program related in Part X, line 13 that is 5% or more of its total assets reported in Part X, line 16? If "Yes," complete Schedule D, Part VIII	11c	No
d Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets reported in Part X, line 16? If "Yes," complete Schedule D, Part IX	11d	No
e Did the organization report an amount for other liabilities in Part X, line 25? If "Yes," complete Schedule D, Part X	11e	No
f Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses the organization's liability for uncertain tax positions under FIN 48 (ASC 740)? If "Yes," complete Schedule D, Part X	11f	No
12a Did the organization obtain separate, independent audited financial statements for the tax year? If "Yes," complete Schedule D, Parts XI and XII	12a	No
b Was the organization included in consolidated, independent audited financial statements for the tax year? If "Yes," and if the organization answered "No" to line 12a, then completing Schedule D, Parts XI and XII is optional	12b	No
13 Is the organization a school described in section 170(b)(1)(A)(ii)? If "Yes," complete Schedule E	13	No
14a Did the organization maintain an office, employees, or agents outside of the United States?	14a	No
b Did the organization have aggregate revenues or expenses of more than \$10,000 from grantmaking, fundraising, business, investment, and program service activities outside the United States, or aggregate foreign investments valued at \$100,000 or more? If "Yes," complete Schedule F, Parts I and IV	14b	No
15 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of grants or other assistance to or for any foreign organization? If "Yes," complete Schedule F, Parts II and IV	15	No
16 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of aggregate grants or other assistance to or for foreign individuals? If "Yes," complete Schedule F, Parts III and IV	16	No
17 Did the organization report a total of more than \$15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? If "Yes," complete Schedule G, Part I (see instructions)	17	No
18 Did the organization report more than \$15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? If "Yes," complete Schedule G, Part II	18	No
19 Did the organization report more than \$15,000 of gross income from gaming activities on Part VIII, line 9a? If "Yes," complete Schedule G, Part III	19	No
20a Did the organization operate one or more hospital facilities? If "Yes," complete Schedule H	20a	No
b If "Yes" to line 20a, did the organization attach a copy of its audited financial statements to this return?	20b	
21 Did the organization report more than \$5,000 of grants or other assistance to any domestic organization or domestic government on Part IX, column (A), line 1? If "Yes," complete Schedule I, Parts I and II	21	No
22 Did the organization report more than \$5,000 of grants or other assistance to or for domestic individuals on Part IX, column (A), line 2? If "Yes," complete Schedule I, Parts I and III	22	No

	Yes	No
23 Did the organization answer "Yes" to Part VII, Section A, line 3, 4, or 5 about compensation of the organization's current and former officers, directors, trustees, key employees, and highest compensated employees? <i>If "Yes," complete Schedule J</i>	23	No
24a Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than \$100,000 as of the last day of the year, that was issued after December 31, 2002? <i>If "Yes," answer lines 24b through 24d and complete Schedule K. If "No," go to line 25a</i>	24a	No
b Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?	24b	
c Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease any tax-exempt bonds?	24c	
d Did the organization act as an "on behalf of" issuer for bonds outstanding at any time during the year?	24d	
25a Section 501(c)(3), 501(c)(4), and 501(c)(29) organizations. Did the organization engage in an excess benefit transaction with a disqualified person during the year? <i>If "Yes," complete Schedule L, Part I</i>	25a	No
b Is the organization aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? <i>If "Yes," complete Schedule L, Part I</i>	25b	No
26 Did the organization report any amount on Part X, line 5, 6, or 22 for receivables from or payables to any current or former officers, directors, trustees, key employees, highest compensated employees, or disqualified persons? <i>If "Yes," complete Schedule L, Part II</i>	26	No
27 Did the organization provide a grant or other assistance to an officer, director, trustee, key employee, substantial contributor or employee thereof, a grant selection committee member, or to a 35% controlled entity or family member of any of these persons? <i>If "Yes," complete Schedule L, Part III</i>	27	No
28 Was the organization a party to a business transaction with one of the following parties (see Schedule L, Part IV instructions for applicable filing thresholds, conditions, and exceptions)		
a A current or former officer, director, trustee, or key employee? <i>If "Yes," complete Schedule L, Part IV</i>	28a	No
b A family member of a current or former officer, director, trustee, or key employee? <i>If "Yes," complete Schedule L, Part IV</i>	28b	No
c An entity of which a current or former officer, director, trustee, or key employee (or a family member thereof) was an officer, director, trustee, or direct or indirect owner? <i>If "Yes," complete Schedule L, Part IV</i>	28c	No
29 Did the organization receive more than \$25,000 in non-cash contributions? <i>If "Yes," complete Schedule M</i>	29	No
30 Did the organization receive contributions of art, historical treasures, or other similar assets, or qualified conservation contributions? <i>If "Yes," complete Schedule M</i>	30	No
31 Did the organization liquidate, terminate, or dissolve and cease operations? <i>If "Yes," complete Schedule N, Part I</i>	31	No
32 Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? <i>If "Yes," complete Schedule N, Part II</i>	32	No
33 Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? <i>If "Yes," complete Schedule R, Part I</i>	33	No
34 Was the organization related to any tax-exempt or taxable entity? <i>If "Yes," complete Schedule R, Part II, III, or IV, and Part V, line 1</i>	34	No
35a Did the organization have a controlled entity within the meaning of section 512(b)(13)?	35a	No
b If "Yes" to line 35a, did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)? <i>If "Yes," complete Schedule R, Part V, line 2</i>	35b	
36 Section 501(c)(3) organizations. Did the organization make any transfers to an exempt non-charitable related organization? <i>If "Yes," complete Schedule R, Part V, line 2</i>	36	No
37 Did the organization conduct more than 5% of its activities through an entity that is not a related organization and that is treated as a partnership for federal income tax purposes? <i>If "Yes," complete Schedule R, Part VI</i>	37	No
38 Did the organization complete Schedule O and provide explanations in Schedule O for Part VI, lines 11b and 19? Note. All Form 990 filers are required to complete Schedule O	38	Yes

Part V Statements Regarding Other IRS Filings and Tax Compliance		Yes	No
Check if Schedule O contains a response or note to any line in this Part V <input type="checkbox"/>			
1a Enter the number reported in Box 3 of Form 1096 Enter -0- if not applicable	1a	1	
b Enter the number of Forms W-2G included in line 1a Enter -0- if not applicable	1b	0	
c Did the organization comply with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners?	1c		

2a Enter the number of employees reported on Form W-2, including full-time and part-time employees, for the calendar year ending with or within the year covered by this return		2a	0
b If at least one is reported on line 2a, did the organization file all required federal employment tax returns? Note. If the sum of lines 1a and 2a is greater than 250, you may be required to e-file (see instructions)		2b	
3a Did the organization have unrelated business gross income of \$1,000 or more during the year?		3a	No
b If "Yes," has it filed a Form 990-T for this year? If "No" to line 3b, provide an explanation in Schedule O		3b	
4a At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)? . . .		4a	No
b If "Yes," enter the name of the foreign country ▶ _____ See instructions for filing requirements for FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)			
5a Was the organization a party to a prohibited tax shelter transaction at any time during the tax year? . . .		5a	No
b Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?		5b	No
c If "Yes," to line 5a or 5b, did the organization file Form 8886-T?		5c	
6a Does the organization have annual gross receipts that are normally greater than \$100,000, and did the organization solicit any contributions that were not tax deductible as charitable contributions?		6a	No
b If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?		6b	
7 Organizations that may receive deductible contributions under section 170(c).			
a Did the organization receive a payment in excess of \$75 made partly as a contribution and partly for goods and services provided to the payor?		7a	
b If "Yes," did the organization notify the donor of the value of the goods or services provided?		7b	
c Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282?		7c	
d If "Yes," indicate the number of Forms 8282 filed during the year		7d	
e Did the organization receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?		7e	
f Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract? . . .		7f	
g If the organization received a contribution of qualified intellectual property, did the organization file Form 8899 as required?		7g	
h If the organization received a contribution of cars, boats, airplanes, or other vehicles, did the organization file a Form 1098-C?		7h	
8 Sponsoring organizations maintaining donor advised funds. Did a donor advised fund maintained by the sponsoring organization have excess business holdings at any time during the year?		8	
9a Did the sponsoring organization make any taxable distributions under section 4966?		9a	
b Did the sponsoring organization make a distribution to a donor, donor advisor, or related person?		9b	
10 Section 501(c)(7) organizations. Enter			
a Initiation fees and capital contributions included on Part VIII, line 12		10a	
b Gross receipts, included on Form 990, Part VIII, line 12, for public use of club facilities		10b	
11 Section 501(c)(12) organizations. Enter			
a Gross income from members or shareholders		11a	
b Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them)		11b	
12a Section 4947(a)(1) non-exempt charitable trusts. Is the organization filing Form 990 in lieu of Form 1041?		12a	
b If "Yes," enter the amount of tax-exempt interest received or accrued during the year		12b	
13 Section 501(c)(29) qualified nonprofit health insurance issuers.			
a Is the organization licensed to issue qualified health plans in more than one state? Note. See the instructions for additional information the organization must report on Schedule O		13a	
b Enter the amount of reserves the organization is required to maintain by the states in which the organization is licensed to issue qualified health plans		13b	
c Enter the amount of reserves on hand		13c	
14a Did the organization receive any payments for indoor tanning services during the tax year?		14a	No
b If "Yes," has it filed a Form 720 to report these payments? If "No," provide an explanation in Schedule O		14b	
15 Is the organization subject to the section 4960 tax on payment(s) of more than \$1,000,000 in remuneration or excess parachute payment(s) during the year? If "Yes," see instructions and file Form 4720, Schedule N		15	No
16 Is the organization an educational institution subject to the section 4968 excise tax on net investment income? If "Yes," complete Form 4720, Schedule O		16	No

Part VI

Governance, Management, and Disclosure For each "Yes" response to lines 2 through 7b below, and line 4, 10b, response to lines 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O. See instructions. Check if Schedule O contains a response or note to any line in this Part VI. ☒

Section A. Governing Body and Management

1a Enter the number of voting members of the governing body at the end of the tax year

1a 3

If there are material differences in voting rights among members of the governing body, or if the governing body delegated broad authority to an executive committee or similar committee, explain in Schedule O

b Enter the number of voting members included in line 1a, above, who are independent

1b 0

- | | Yes | No |
|--|-----|----|
| 2 Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee? | | No |
| 3 Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors or trustees, or key employees to a management company or other person? | | No |
| 4 Did the organization make any significant changes to its governing documents since the prior Form 990 was filed? | | No |
| 5 Did the organization become aware during the year of a significant diversion of the organization's assets? | | No |
| 6 Did the organization have members or stockholders? | | No |
| 7a Did the organization have members, stockholders, or other persons who had the power to elect or appoint one or more members of the governing body? | | No |
| 7b Are any governance decisions of the organization reserved to (or subject to approval by) members, stockholders, or persons other than the governing body? | | No |
| 8 Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following: | | |
| a The governing body? | Yes | |
| b Each committee with authority to act on behalf of the governing body? | Yes | |
| 9 Is there any officer, director, trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? If "Yes," provide the names and addresses in Schedule O | | No |

Section B. Policies (This Section B requests information about policies not required by the Internal Revenue Code.)

- | | Yes | No |
|---|-----|----|
| 10a Did the organization have local chapters, branches, or affiliates? | | No |
| 10b If "Yes," did the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with the organization's exempt purposes? | | |
| 11a Has the organization provided a complete copy of this Form 990 to all members of its governing body before filing the form? | Yes | |
| b Describe in Schedule O the process, if any, used by the organization to review this Form 990 | | |
| 12a Did the organization have a written conflict of interest policy? If "No," go to line 13 | Yes | |
| b Were officers, directors, or trustees, and key employees required to disclose annually interests that could give rise to conflicts? | Yes | |
| c Did the organization regularly and consistently monitor and enforce compliance with the policy? If "Yes," describe in Schedule O how this was done | Yes | |
| 13 Did the organization have a written whistleblower policy? | | No |
| 14 Did the organization have a written document retention and destruction policy? | Yes | |
| 15 Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision? | | |
| a The organization's CEO, Executive Director, or top management official | | No |
| b Other officers or key employees of the organization | | No |
| If "Yes" to line 15a or 15b, describe the process in Schedule O (see instructions) | | |
| 16a Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year? | | No |
| b If "Yes," did the organization follow a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and take steps to safeguard the organization's exempt status with respect to such arrangements? | | |

Section C. Disclosure

- 17** List the States with which a copy of this Form 990 is required to be filed: _____
- 18** Section 6104 requires an organization to make its Form 1023 (or 1024-A if applicable), 990, and 990-T (501(c)(3)s only) available for public inspection. Indicate how you made these available. Check all that apply.
☐ Own website ☐ Another's website ☒ Upon request ☐ Other (explain in Schedule O)
- 19** Describe in Schedule O whether (and if so, how) the organization made its governing documents, conflict of interest policy, and financial statements available to the public during the tax year.
- 20** State the name, address, and telephone number of the person who possesses the organization's books and records
▶ LISA CYRIACKS 504 ARROWHEAD WAY Crestone, CO 81131 (719) 256-4140

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Check if Schedule O contains a response or note to any line in this Part VII ☐

1a Complete this table for all persons required to be listed. Report compensation for the calendar year ending with or within the organization's tax year.

- List all of the organization's **current** officers, directors, trustees (whether individuals or organizations), regardless of amount of compensation Enter -0- in columns (D), (E), and (F) if no compensation was paid
- List all of the organization's **current** key employees, if any See instructions for definition of "key employee "
- List the organization's five **current** highest compensated employees (other than an officer, director, trustee or key employee) who received reportable compensation (Box 5 of Form W-2 and/or Box 7 of Form 1099-MISC) of more than \$100,000 from the organization and any related organizations
- List all of the organization's **former** officers, key employees, or highest compensated employees who received more than \$100,000 of reportable compensation from the organization and any related organizations
- List all of the organization's **former directors or trustees** that received, in the capacity as a former director or trustee of the organization, more than \$10,000 of reportable compensation from the organization and any related organizations

List persons in the following order: individual trustees or directors; institutional trustees; officers; key employees; highest compensated employees; and former such persons

☐ Check this box if neither the organization nor any related organization compensated any current officer, director, or trustee[illegible]

Part VII Section A Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees (continued)

(A) Name and Title	(B) Average hours per week (list any hours for related organizations below dotted line)	(C) Position (do not check more than one box, unless person is both an officer and a director/trustee)							(D) Reportable compensation from the organization (W-2/1099-MISC)	(E) Reportable compensation from related organizations (W-2/1099-MISC)	(F) Estimated amount of other compensation from the organization and related organizations
		Individual trustee or director	Institutional Trustee	Officer	Key employee	Highest compensated employee	Former				
1b Sub-Total											
c Total from continuation sheets to Part VII, Section A											
d Total (add lines 1b and 1c)								0	0	0	0

2 Total number of individuals (including but not limited to those listed above) who received more than \$100,000 of reportable compensation from the organization **0**

	Yes	No
3 Did the organization list any former officer, director or trustee, key employee, or highest compensated employee on line 1a? <i>If "Yes," complete Schedule J for such individual</i>		No
4 For any individual listed on line 1a, is the sum of reportable compensation and other compensation from the organization and related organizations greater than \$150,000? <i>If "Yes," complete Schedule J for such individual</i>		No
5 Did any person listed on line 1a receive or accrue compensation from any unrelated organization or individual for services rendered to the organization? <i>If "Yes," complete Schedule J for such person</i>		No

Section B. Independent Contractors

1 Complete this table for your five highest compensated independent contractors that received more than \$100,000 of compensation from the organization. Report compensation for the calendar year ending with or within the organization's tax year.		
(A) Name and business address	(B) Description of services	(C) Compensation
2 Total number of independent contractors (including but not limited to those listed above) who received more than \$100,000 of compensation from the organization 0		

Check if Schedule O contains a response or note to any line in this Part VIII ☐

Contributions, Gifts, Grants and Other Similar Amounts

	(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512 - 514
1a Federated campaigns	1a			
b Membership dues	1b			
c Fundraising events	1c			
d Related organizations	1d			
e Government grants (contributions)	1e			
f All other contributions, gifts, grants, and similar amounts not included above	1f	218,953		
g Noncash contributions included in lines 1a - 1f \$				
h Total. Add lines 1a-1f		218,953		

Program Service Revenue

	Business Code				
2a					
b					
c					
d					
e					
f All other program service revenue		0			
g Total. Add lines 2a-2f		0			

Other Revenue

3 Investment income (including dividends, interest, and other similar amounts)		37			37
4 Income from investment of tax-exempt bond proceeds		0			
5 Royalties		0			
6a Gross rents	(i) Real	(ii) Personal			
b Less rental expenses					
c Rental income or (loss)	0	0			
d Net rental income or (loss)		0			
7a Gross amount from sales of assets other than inventory	(i) Securities	(ii) Other			
b Less cost or other basis and sales expenses					
c Gain or (loss)					
d Net gain or (loss)		0			
8a Gross income from fundraising events (not including \$ of contributions reported on line 1c) See Part IV, line 18	a	0			
b Less direct expenses	b	0			
c Net income or (loss) from fundraising events		0			
9a Gross income from gaming activities See Part IV, line 19	a	0			
b Less direct expenses	b	0			
c Net income or (loss) from gaming activities		0			
10a Gross sales of inventory, less returns and allowances	a	0			
b Less cost of goods sold	b	0			
c Net income or (loss) from sales of inventory		0			
Miscellaneous Revenue	Business Code				
11a					
b					
c					
d All other revenue					
e Total. Add lines 11a-11d		0			
12 Total revenue. See Instructions		218,990			37

Part IX **Statement of Functional Expenses** **Document 1565 Filed 01/07/23 Page 568 of 721**
 Section 501(c)(3) and 501(c)(4) organizations must complete all columns. All other organizations must complete column (A).

Check if Schedule O contains a response or note to any line in this Part IX ☐

Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.

	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to domestic organizations and domestic governments. See Part IV, line 21.	0			
2 Grants and other assistance to domestic individuals. See Part IV, line 22.	0			
3 Grants and other assistance to foreign organizations, foreign governments, and foreign individuals. See Part IV, line 15 and 16.	0			
4 Benefits paid to or for members	0			
5 Compensation of current officers, directors, trustees, and key employees	0			
6 Compensation not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B)	0			
7 Other salaries and wages	0			
8 Pension plan accruals and contributions (include section 401 (k) and 403(b) employer contributions)	0			
9 Other employee benefits	0			
10 Payroll taxes	0			
11 Fees for services (non-employees)				
a Management	0			
b Legal	189,792	189,792		
c Accounting	1,500		1,500	0
d Lobbying	0			
e Professional fundraising services. See Part IV, line 17.	0			
f Investment management fees	0			
g Other (If line 11g amount exceeds 10% of line 25, column (A) amount, list line 11g expenses on Schedule O)	269		269	
12 Advertising and promotion	0			
13 Office expenses	100		100	
14 Information technology	0			
15 Royalties	0			
16 Occupancy	0			
17 Travel	770		770	
18 Payments of travel or entertainment expenses for any federal, state, or local public officials	0			
19 Conferences, conventions, and meetings	0			
20 Interest	0			
21 Payments to affiliates	0			
22 Depreciation, depletion, and amortization	0			
23 Insurance	650		650	
24 Other expenses. Itemize expenses not covered above (List miscellaneous expenses in line 24e. If line 24e amount exceeds 10% of line 25, column (A) amount, list line 24e expenses on Schedule O.)				
a				
b				
c				
d				
e All other expenses				
25 Total functional expenses. Add lines 1 through 24e	193,081	189,792	3,289	0
26 Joint costs. Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation. Check here <input type="checkbox"/> if following SOP 98-2 (ASC 958-720)				

Check if Schedule O contains a response or note to any line in this Part IX ☐

		(A) Beginning of year		(B) End of year
Assets	1 Cash—non-interest-bearing	27,706	1	53,615
	2 Savings and temporary cash investments	0	2	0
	3 Pledges and grants receivable, net	0	3	0
	4 Accounts receivable, net	0	4	0
	5 Loans and other receivables from current and former officers, directors, trustees, key employees, and highest compensated employees. Complete Part II of Schedule L	0	5	0
	6 Loans and other receivables from other disqualified persons (as defined under section 4958(f)(1)), persons described in section 4958(c)(3)(B), and contributing employers and sponsoring organizations of section 501(c)(9) voluntary employees' beneficiary organizations (see instructions). Complete Part II of Schedule L	0	6	0
	7 Notes and loans receivable, net	0	7	0
	8 Inventories for sale or use	0	8	0
	9 Prepaid expenses and deferred charges	0	9	0
	10a Land, buildings, and equipment—cost or other basis. Complete Part VI of Schedule D			
	b Less: accumulated depreciation		10c	0
	11 Investments—publicly traded securities	0	11	0
	12 Investments—other securities. See Part IV, line 11	0	12	0
	13 Investments—program-related. See Part IV, line 11	0	13	0
	14 Intangible assets	0	14	0
	15 Other assets. See Part IV, line 11	0	15	0
16 Total assets. Add lines 1 through 15 (must equal line 34)	27,706	16	53,615	
Liabilities	17 Accounts payable and accrued expenses	0	17	0
	18 Grants payable	0	18	0
	19 Deferred revenue	0	19	0
	20 Tax-exempt bond liabilities	0	20	0
	21 Escrow or custodial account liability. Complete Part IV of Schedule D	0	21	0
	22 Loans and other payables to current and former officers, directors, trustees, key employees, highest compensated employees, and disqualified persons. Complete Part II of Schedule L	0	22	0
	23 Secured mortgages and notes payable to unrelated third parties	0	23	0
	24 Unsecured notes and loans payable to unrelated third parties	0	24	0
	25 Other liabilities (including federal income tax, payables to related third parties, and other liabilities not included on lines 17 - 24). Complete Part X of Schedule D	0	25	0
	26 Total liabilities. Add lines 17 through 25	0	26	0
Net Assets or Fund Balances	Organizations that follow SFAS 117 (ASC 958), check here <input type="checkbox"/> and complete lines 27 through 29, and lines 33 and 34.			
	27 Unrestricted net assets		27	
	28 Temporarily restricted net assets		28	
	29 Permanently restricted net assets		29	
	Organizations that do not follow SFAS 117 (ASC 958), check here <input checked="" type="checkbox"/> and complete lines 30 through 34.			
	30 Capital stock or trust principal, or current funds	0	30	0
	31 Paid-in or capital surplus, or land, building or equipment fund	0	31	0
	32 Retained earnings, endowment, accumulated income, or other funds	27,706	32	53,615
33 Total net assets or fund balances	27,706	33	53,615	
34 Total liabilities and net assets/fund balances	27,706	34	53,615	

Part XI **Reconciliation of Net Assets**

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Check if Schedule O contains a response or note to any line in this Part XI ☐

1	Total revenue (must equal Part VIII, column (A), line 12)	1	218,990
2	Total expenses (must equal Part IX, column (A), line 25)	2	193,081
3	Revenue less expenses Subtract line 2 from line 1	3	25,909
4	Net assets or fund balances at beginning of year (must equal Part X, line 33, column (A))	4	27,706
5	Net unrealized gains (losses) on investments	5	
6	Donated services and use of facilities	6	
7	Investment expenses	7	
8	Prior period adjustments	8	
9	Other changes in net assets or fund balances (explain in Schedule O)	9	
10	Net assets or fund balances at end of year Combine lines 3 through 9 (must equal Part X, line 33, column (B))	10	53,615

Part XII **Financial Statements and Reporting**Check if Schedule O contains a response or note to any line in this Part XII ☐

- 1** Accounting method used to prepare the Form 990 ☐ Cash ☒ Accrual ☐ Other _____
If the organization changed its method of accounting from a prior year or checked "Other," explain in Schedule O
- 2a** Were the organization's financial statements compiled or reviewed by an independent accountant?
If 'Yes,' check a box below to indicate whether the financial statements for the year were compiled or reviewed on a separate basis, consolidated basis, or both
☐ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis
- b** Were the organization's financial statements audited by an independent accountant?
If 'Yes,' check a box below to indicate whether the financial statements for the year were audited on a separate basis, consolidated basis, or both
☐ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis
- c** If "Yes," to line 2a or 2b, does the organization have a committee that assumes responsibility for oversight of the audit, review, or compilation of its financial statements and selection of an independent accountant?
If the organization changed either its oversight process or selection process during the tax year, explain in Schedule O
- 3a** As a result of a federal award, was the organization required to undergo an audit or audits as set forth in the Single Audit Act and OMB Circular A-133?
- b** If "Yes," did the organization undergo the required audit or audits? If the organization did not undergo the required audit or audits, explain why in Schedule O and describe any steps taken to undergo such audits

	Yes	No
2a		No
2b		No
2c		
3a		No
3b		

Additional Data

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Software ID:

Software Version:

EIN: 26-3670783

Name: Coalition for Good Governance

Form 990 (2018)

Form 990, Part III, Line 4a:

ADVOCATING FOR VOTERS' RIGHT TO A VERIFIABLE ELECTION, CGG LITIGATED IN FEDERAL COURT AGAINST GEORGIA'S USE OF AN UNVERIFIABLE PAPERLESS TOUCHSCREEN SYSTEM AND EDUCATED GA VOTERS ON THE IMPORTANCE OF USING AN ELECTION SYSTEM THAT INCLUDES EITHER PAPER BALLOTS OR CREATES A PAPER TRAIL

Form 990, Part III, Line 4b:

LITIGATION ON THE PART OF GEORGIA VOTERS TO FORCE INVESTIGATION AND CORRECTION OF DEFECTS CAUSING DISCREPANCIES IN VOTING SYSTEM LITIGATION
RESULTED IN IDENTIFYING AND INCLUSION OF VOTES THAT OTHERWISE WOULD NOT HAVE BEEN COUNTED

Form 990, Part III, Line 4c:

CHALLENGED STATE OF GEORGIA'S DISCRIMINATORY POLICIES ON ABSENTEE BALLOTS THIS PROTECTED VOTERS' RIGHT TO FILE AN ABSENTEE BALLOT AND RESULTED
IN THOUSANDS OF BALLOTS BEING COUNTED THAT OTHERWISE WOULD HAVE BEEN REJECTED

SCHEDULE A
(Form 990 or 990-EZ)

Department of the Treasury
Internal Revenue Service

Public Charity Status and Public Support
Complete if the organization is a section 501(c)(3) organization or a section 4947(a)(1) nonexempt charitable trust.
▶ Attach to Form 990 or Form 990-EZ.
▶ Go to www.irs.gov/Form990 for the latest information.

2018
Open to Public Inspection

Name of the organization
Coalition for Good Governance

Employer identification number
26-3670783

Part I Reason for Public Charity Status (All organizations must complete this part.) See instructions.

The organization is not a private foundation because it is (For lines 1 through 12, check only one box.)

- 1

☐

A church, convention of churches, or association of churches described in **section 170(b)(1)(A)(i).**
- 2

☐

A school described in **section 170(b)(1)(A)(ii).** (Attach Schedule E (Form 990 or 990-EZ))
- 3

☐

A hospital or a cooperative hospital service organization described in **section 170(b)(1)(A)(iii).**
- 4

☐

A medical research organization operated in conjunction with a hospital described in **section 170(b)(1)(A)(iii).** Enter the hospital's name, city, and state _____
- 5

☐

An organization operated for the benefit of a college or university owned or operated by a governmental unit described in **section 170(b)(1)(A)(iv).** (Complete Part II)
- 6

☐

A federal, state, or local government or governmental unit described in **section 170(b)(1)(A)(v).**
- 7

☒

An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in **section 170(b)(1)(A)(vi).** (Complete Part II)
- 8

☐

A community trust described in **section 170(b)(1)(A)(vi)** (Complete Part II)
- 9

☐

An agricultural research organization described in **170(b)(1)(A)(ix)** operated in conjunction with a land-grant college or university or a non-land grant college of agriculture See instructions Enter the name, city, and state of the college or university _____
- 10

☐

An organization that normally receives (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions—subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975 See **section 509(a)(2).** (Complete Part III)
- 11

☐

An organization organized and operated exclusively to test for public safety See **section 509(a)(4).**
- 12

☐

An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in **section 509(a)(1)** or **section 509(a)(2).** See **section 509(a)(3).** Check the box in lines 12a through 12d that describes the type of supporting organization and complete lines 12e, 12f, and 12g
- a

☐

Type I. A supporting organization operated, supervised, or controlled by its supported organization(s), typically by giving the supported organization(s) the power to regularly appoint or elect a majority of the directors or trustees of the supporting organization **You must complete Part IV, Sections A and B.**
- b

☐

Type II. A supporting organization supervised or controlled in connection with its supported organization(s), by having control or management of the supporting organization vested in the same persons that control or manage the supported organization(s) **You must complete Part IV, Sections A and C.**
- c

☐

Type III functionally integrated. A supporting organization operated in connection with, and functionally integrated with, its supported organization(s) (see instructions) **You must complete Part IV, Sections A, D, and E.**
- d

☐

Type III non-functionally integrated. A supporting organization operated in connection with its supported organization(s) that is not functionally integrated The organization generally must satisfy a distribution requirement and an attentiveness requirement (see instructions) **You must complete Part IV, Sections A and D, and Part V.**
- e

☐

Check this box if the organization received a written determination from the IRS that it is a Type I, Type II, Type III functionally integrated, or Type III non-functionally integrated supporting organization
- f

Enter the number of supported organizations _____
- g

Provide the following information about the supported organization(s)

(i) Name of supported organization	(ii) EIN	(iii) Type of organization (described on lines 1- 10 above (see instructions))	(iv) Is the organization listed in your governing document?		(v) Amount of monetary support (see instructions)	(vi) Amount of other support (see instructions)
			Yes	No		
Total						

Part II Support Schedule for Organizations Described in Sections 501(c)(1)(A)(i), 501(c)(1)(A)(ii), 501(c)(1)(A)(iii), and 170(b)(1)(A)(ix)

(Complete only if you checked the box on line 5, 7, 8, or 9 of Part I or if the organization failed to qualify under Part III. If the organization fails to qualify under the tests listed below, please complete Part III.)

Section A. Public Support							
	Calendar year (or fiscal year beginning in) ►	(a) 2014	(b) 2015	(c) 2016	(d) 2017	(e) 2018	(f) Total
1	Gifts, grants, contributions, and membership fees received (Do not include any "unusual grant ")	15,150	6,010	0	117,663	218,953	357,776
2	Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						0
3	The value of services or facilities furnished by a governmental unit to the organization without charge						0
4	Total. Add lines 1 through 3	15,150	6,010	0	117,663	218,953	357,776
5	The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f)						204,846
6	Public support. Subtract line 5 from line 4						152,930

Section B. Total Support							
Calendar year (or fiscal year beginning in) ►		(a)2014	(b)2015	(c)2016	(d)2017	(e)2018	(f)Total
7	Amounts from line 4	15,150	6,010	0	117,663	218,953	357,776
8	Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources	174	186	34	37	37	468
9	Net income from unrelated business activities, whether or not the business is regularly carried on						0
10	Other income Do not include gain or loss from the sale of capital assets (Explain in Part VI)						0
11	Total support. Add lines 7 through 10						358,244
12	Gross receipts from related activities, etc (see instructions)					12	
13	First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here ► <input type="checkbox"/>						

Section C. Computation of Public Support Percentage		
14	Public support percentage for 2018 (line 6, column (f) divided by line 11, column (f))	14 42.689 %
15	Public support percentage for 2017 Schedule A, Part II, line 14	15 48.758 %
16a	33 1/3% support test—2018. If the organization did not check the box on line 13, and line 14 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ▶ <input checked="" type="checkbox"/>	
b	33 1/3% support test—2017. If the organization did not check a box on line 13 or 16a, and line 15 is 33 1/3% or more, check this box and stop here. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>	
17a	10%-facts-and-circumstances test—2018. If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part VI how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>	
b	10%-facts-and-circumstances test—2017. If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here. Explain in Part VI how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>	
18	Private foundation. If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions ▶ <input type="checkbox"/>	

Part III **Support Schedule for Organizations Described in Section 501(a)(2)** **Page 576 of 721**

(Complete only if you checked the box on line 10 of Part I or if the organization failed to qualify under Part II. If the organization fails to qualify under the tests listed below, please complete Part II.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ►	(a) 2014	(b) 2015	(c) 2016	(d) 2017	(e) 2018	(f) Total
1 Gifts, grants, contributions, and membership fees received (Do not include any "unusual grants.")						
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose						
3 Gross receipts from activities that are not an unrelated trade or business under section 513						
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
5 The value of services or facilities furnished by a governmental unit to the organization without charge						
6 Total. Add lines 1 through 5						
7a Amounts included on lines 1, 2, and 3 received from disqualified persons						
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of \$5,000 or 1% of the amount on line 13 for the year						
c Add lines 7a and 7b						
8 Public support. (Subtract line 7c from line 6.)						

Section B. Total Support

Calendar year (or fiscal year beginning in) ►	(a) 2014	(b) 2015	(c) 2016	(d) 2017	(e) 2018	(f) Total
9 Amounts from line 6						
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975						
c Add lines 10a and 10b						
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on						
12 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part VI.)						
13 Total support. (Add lines 9, 10c, 11, and 12.)						

14 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and **stop here** ► ☐

Section C. Computation of Public Support Percentage

15 Public support percentage for 2018 (line 8, column (f) divided by line 13, column (f))	15	
16 Public support percentage from 2017 Schedule A, Part III, line 15	16	

Section D. Computation of Investment Income Percentage

17 Investment income percentage for 2018 (line 10c, column (f) divided by line 13, column (f))	17	
18 Investment income percentage from 2017 Schedule A, Part III, line 17	18	

19a 33 1/3% support tests—2018. If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and **stop here**. The organization qualifies as a publicly supported organization ► ☐

b 33 1/3% support tests—2017. If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3% and line 18 is not more than 33 1/3%, check this box and **stop here**. The organization qualifies as a publicly supported organization ► ☐

20 Private foundation. If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions ► ☐

Part IV Supporting Organizations Case 1:17-cv-0289-AT Document 1565 Filed 01/07/23 Page 577 of 721

(Complete only if you checked a box on line 12 of Part I. If you checked 12a of Part I, complete Sections A and B. If you checked 12b of Part I, complete Sections A and C. If you checked 12c of Part I, complete Sections A, D, and E. If you checked 12d of Part I, complete Sections A and D, and complete Part V.)

Section A. All Supporting Organizations

	Yes	No
1 Are all of the organization's supported organizations listed by name in the organization's governing documents? If "No," describe in Part VI how the supported organizations are designated. If designated by class or purpose, describe the designation. If historic and continuing relationship, explain.		
1		
2 Did the organization have any supported organization that does not have an IRS determination of status under section 509(a)(1) or (2)? If "Yes," explain in Part VI how the organization determined that the supported organization was described in section 509(a)(1) or (2).		
2		
3a Did the organization have a supported organization described in section 501(c)(4), (5), or (6)? If "Yes," answer (b) and (c) below.		
3a		
b Did the organization confirm that each supported organization qualified under section 501(c)(4), (5), or (6) and satisfied the public support tests under section 509(a)(2)? If "Yes," describe in Part VI when and how the organization made the determination.		
3b		
c Did the organization ensure that all support to such organizations was used exclusively for section 170(c)(2)(B) purposes? If "Yes," explain in Part VI what controls the organization put in place to ensure such use.		
3c		
4a Was any supported organization not organized in the United States ("foreign supported organization")? If "Yes" and if you checked 12a or 12b in Part I, answer (b) and (c) below.		
4a		
b Did the organization have ultimate control and discretion in deciding whether to make grants to the foreign supported organization? If "Yes," describe in Part VI how the organization had such control and discretion despite being controlled or supervised by or in connection with its supported organizations.		
4b		
c Did the organization support any foreign supported organization that does not have an IRS determination under sections 501(c)(3) and 509(a)(1) or (2)? If "Yes," explain in Part VI what controls the organization used to ensure that all support to the foreign supported organization was used exclusively for section 170(c)(2)(B) purposes.		
4c		
5a Did the organization add, substitute, or remove any supported organizations during the tax year? If "Yes," answer (b) and (c) below (if applicable). Also, provide detail in Part VI , including (i) the names and EIN numbers of the supported organizations added, substituted, or removed, (ii) the reasons for each such action, (iii) the authority under the organization's organizing document authorizing such action, and (iv) how the action was accomplished (such as by amendment to the organizing document).		
5a		
b Type I or Type II only. Was any added or substituted supported organization part of a class already designated in the organization's organizing document?		
5b		
c Substitutions only. Was the substitution the result of an event beyond the organization's control?		
5c		
6 Did the organization provide support (whether in the form of grants or the provision of services or facilities) to anyone other than (i) its supported organizations, (ii) individuals that are part of the charitable class benefited by one or more of its supported organizations, or (iii) other supporting organizations that also support or benefit one or more of the filing organization's supported organizations? If "Yes," provide detail in Part VI .		
6		
7 Did the organization provide a grant, loan, compensation, or other similar payment to a substantial contributor (defined in section 4958(c)(3)(C)), a family member of a substantial contributor, or a 35% controlled entity with regard to a substantial contributor? If "Yes," complete Part I of Schedule L (Form 990 or 990-EZ).		
7		
8 Did the organization make a loan to a disqualified person (as defined in section 4958) not described in line 7? If "Yes," complete Part I of Schedule L (Form 990 or 990-EZ).		
8		
9a Was the organization controlled directly or indirectly at any time during the tax year by one or more disqualified persons as defined in section 4946 (other than foundation managers and organizations described in section 509(a)(1) or (2))? If "Yes," provide detail in Part VI .		
9a		
b Did one or more disqualified persons (as defined in line 9a) hold a controlling interest in any entity in which the supporting organization had an interest? If "Yes," provide detail in Part VI .		
9b		
c Did a disqualified person (as defined in line 9a) have an ownership interest in, or derive any personal benefit from, assets in which the supporting organization also had an interest? If "Yes," provide detail in Part VI .		
9c		
10a Was the organization subject to the excess business holdings rules of section 4943 because of section 4943(f) (regarding certain Type II supporting organizations, and all Type III non-functionally integrated supporting organizations)? If "Yes," answer line 10b below.		
10a		
b Did the organization have any excess business holdings in the tax year? (Use Schedule C, Form 4720, to determine whether the organization had excess business holdings).		
10b		

	Yes	No
11 Has the organization accepted a gift or contribution from any of the following persons?		
a A person who directly or indirectly controls, either alone or together with persons described in (b) and (c) below, the governing body of a supported organization?		
b A family member of a person described in (a) above?		
c A 35% controlled entity of a person described in (a) or (b) above? <i>If "Yes" to a, b, or c, provide detail in Part VI</i>		
11a		
11b		
11c		

Section B. Type I Supporting Organizations

	Yes	No
1 Did the directors, trustees, or membership of one or more supported organizations have the power to regularly appoint or elect at least a majority of the organization's directors or trustees at all times during the tax year? <i>If "No," describe in Part VI how the supported organization(s) effectively operated, supervised, or controlled the organization's activities. If the organization had more than one supported organization, describe how the powers to appoint and/or remove directors or trustees were allocated among the supported organizations and what conditions or restrictions, if any, applied to such powers during the tax year.</i>		
1		
2 Did the organization operate for the benefit of any supported organization other than the supported organization(s) that operated, supervised, or controlled the supporting organization? <i>If "Yes," explain in Part VI how providing such benefit carried out the purposes of the supported organization(s) that operated, supervised or controlled the supporting organization.</i>		
2		

Section C. Type II Supporting Organizations

	Yes	No
1 Were a majority of the organization's directors or trustees during the tax year also a majority of the directors or trustees of each of the organization's supported organization(s)? <i>If "No," describe in Part VI how control or management of the supporting organization was vested in the same persons that controlled or managed the supported organization(s).</i>		
1		

Section D. All Type III Supporting Organizations

	Yes	No
1 Did the organization provide to each of its supported organizations, by the last day of the fifth month of the organization's tax year, (i) a written notice describing the type and amount of support provided during the prior tax year, (ii) a copy of the Form 990 that was most recently filed as of the date of notification, and (iii) copies of the organization's governing documents in effect on the date of notification, to the extent not previously provided?		
1		
2 Were any of the organization's officers, directors, or trustees either (i) appointed or elected by the supported organization (s) or (ii) serving on the governing body of a supported organization? <i>If "No," explain in Part VI how the organization maintained a close and continuous working relationship with the supported organization(s).</i>		
2		
3 By reason of the relationship described in (2), did the organization's supported organizations have a significant voice in the organization's investment policies and in directing the use of the organization's income or assets at all times during the tax year? <i>If "Yes," describe in Part VI the role the organization's supported organizations played in this regard.</i>		
3		

Section E. Type III Functionally-Integrated Supporting Organizations

1 Check the box next to the method that the organization used to satisfy the Integral Part Test during the year (see instructions)		
a <input type="checkbox"/> The organization satisfied the Activities Test. Complete line 2 below.		
b <input type="checkbox"/> The organization is the parent of each of its supported organizations. Complete line 3 below.		
c <input type="checkbox"/> The organization supported a governmental entity. Describe in Part VI how you supported a government entity (see instructions).		
2 Activities Test. Answer (a) and (b) below.		
a Did substantially all of the organization's activities during the tax year directly further the exempt purposes of the supported organization(s) to which the organization was responsive? <i>If "Yes," then in Part VI identify those supported organizations and explain how these activities directly furthered their exempt purposes, how the organization was responsive to those supported organizations, and how the organization determined that these activities constituted substantially all of its activities.</i>		
2a		
b Did the activities described in (a) constitute activities that, but for the organization's involvement, one or more of the organization's supported organization(s) would have been engaged in? <i>If "Yes," explain in Part VI the reasons for the organization's position that its supported organization(s) would have engaged in these activities but for the organization's involvement.</i>		
2b		
3 Parent of Supported Organizations. Answer (a) and (b) below.		
a Did the organization have the power to regularly appoint or elect a majority of the officers, directors, or trustees of each of the supported organizations? <i>Provide details in Part VI.</i>		
3a		
b Did the organization exercise a substantial degree of direction over the policies, programs and activities of each of its supported organizations? <i>If "Yes," describe in Part VI the role played by the organization in this regard.</i>		
3b		

Part V Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations

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1	<input type="checkbox"/>	Check here if the organization satisfied the Integral Part Test as a qualifying trust on Nov. 20, 1970 (explain in Part VI) See instructions. All other Type III non-functionally integrated supporting organizations must complete Sections A through E		
Section A - Adjusted Net Income			(A) Prior Year	(B) Current Year (optional)
1	Net short-term capital gain	1		
2	Recoveries of prior-year distributions	2		
3	Other gross income (see instructions)	3		
4	Add lines 1 through 3	4		
5	Depreciation and depletion	5		
6	Portion of operating expenses paid or incurred for production or collection of gross income or for management, conservation, or maintenance of property held for production of income (see instructions)	6		
7	Other expenses (see instructions)	7		
8	Adjusted Net Income (subtract lines 5, 6 and 7 from line 4)	8		
Section B - Minimum Asset Amount			(A) Prior Year	(B) Current Year (optional)
1	Aggregate fair market value of all non-exempt-use assets (see instructions for short tax year or assets held for part of year)	1		
a	Average monthly value of securities	1a		
b	Average monthly cash balances	1b		
c	Fair market value of other non-exempt-use assets	1c		
d	Total (add lines 1a, 1b, and 1c)	1d		
e	Discount claimed for blockage or other factors (explain in detail in Part VI)			
2	Acquisition indebtedness applicable to non-exempt use assets	2		
3	Subtract line 2 from line 1d	3		
4	Cash deemed held for exempt use. Enter 1-1/2% of line 3 (for greater amount, see instructions)	4		
5	Net value of non-exempt-use assets (subtract line 4 from line 3)	5		
6	Multiply line 5 by .035	6		
7	Recoveries of prior-year distributions	7		
8	Minimum Asset Amount (add line 7 to line 6)	8		
Section C - Distributable Amount				Current Year
1	Adjusted net income for prior year (from Section A, line 8, Column A)	1		
2	Enter 85% of line 1	2		
3	Minimum asset amount for prior year (from Section B, line 8, Column A)	3		
4	Enter greater of line 2 or line 3	4		
5	Income tax imposed in prior year	5		
6	Distributable Amount. Subtract line 5 from line 4, unless subject to emergency temporary reduction (see instructions)	6		
7	<input type="checkbox"/>	Check here if the current year is the organization's first as a non-functionally-integrated Type III supporting organization (see instructions)		

Section D - Distributions	Current Year
1 Amounts paid to supported organizations to accomplish exempt purposes	
2 Amounts paid to perform activity that directly furthers exempt purposes of supported organizations, in excess of income from activity	
3 Administrative expenses paid to accomplish exempt purposes of supported organizations	
4 Amounts paid to acquire exempt-use assets	
5 Qualified set-aside amounts (prior IRS approval required)	
6 Other distributions (describe in Part VI) See instructions	
7 Total annual distributions. Add lines 1 through 6	
8 Distributions to attentive supported organizations to which the organization is responsive (provide details in Part VI) See instructions	
9 Distributable amount for 2018 from Section C, line 6	
10 Line 8 amount divided by Line 9 amount	

Section E - Distribution Allocations (see instructions)	(i) Excess Distributions	(ii) Underdistributions Pre-2018	(iii) Distributable Amount for 2018
1 Distributable amount for 2018 from Section C, line 6			
2 Underdistributions, if any, for years prior to 2018 (reasonable cause required-- explain in Part VI) See instructions			
3 Excess distributions carryover, if any, to 2018			
a From 2013.			
b From 2014.			
c From 2015.			
d From 2016.			
e From 2017.			
f Total of lines 3a through e			
g Applied to underdistributions of prior years			
h Applied to 2018 distributable amount			
i Carryover from 2013 not applied (see instructions)			
j Remainder Subtract lines 3g, 3h, and 3i from 3f			
4 Distributions for 2018 from Section D, line 7 \$			
a Applied to underdistributions of prior years			
b Applied to 2018 distributable amount			
c Remainder Subtract lines 4a and 4b from 4			
5 Remaining underdistributions for years prior to 2018, if any Subtract lines 3g and 4a from line 2 If the amount is greater than zero, explain in Part VI See instructions			
6 Remaining underdistributions for 2018 Subtract lines 3h and 4b from line 1 If the amount is greater than zero, explain in Part VI See instructions			
7 Excess distributions carryover to 2019. Add lines 3j and 4c			
8 Breakdown of line 7			
a Excess from 2014.			
b Excess from 2015.			
c Excess from 2016.			
d Excess from 2017.			
e Excess from 2018.			

Additional Data

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Software ID:

Software Version:

EIN: 26-3670783

Name: Coalition for Good Governance

Schedule A (Form 990 or 990-EZ) 2018

Page **8**

Part VI **Supplemental Information.** Provide the explanations required by Part II, line 10, Part II, line 17a or 17b, Part III, line 12, Part IV, Section A, lines 1, 2, 3b, 3c, 4b, 4c, 5a, 6, 9a, 9b, 9c, 11a, 11b, and 11c, Part IV, Section B, lines 1 and 2, Part IV, Section C, line 1, Part IV, Section D, lines 2 and 3, Part IV, Section E, lines 1c, 2a, 2b, 3a and 3b, Part V, line 1, Part V, Section B, line 1e, Part V Section D, lines 5, 6, and 8, and Part V, Section E, lines 2, 5, and 6. Also complete this part for any additional information. (See instructions)

Facts And Circumstances Test

SCHEDULE O
(Form 990 or 990-EZ)

Supplemental Information to Form 990 or 990-EZ

Complete to provide information for responses to specific questions on Form 990 or 990-EZ or to provide any additional information.

▶ Attach to Form 990 or 990-EZ.

▶ Go to www.irs.gov/Form990 for the latest information.

2018

Open to Public Inspection

Department of the Treasury

Name of the organization
Coalition for Good Governance

Employer identification number

26-3670783

990 Schedule O, Supplemental Information

Return Reference	Explanation
FORM 990, PART VI, SECTION B, LINE 11B	THE FORM 990 IS REVIEWED BY THE PRESIDENT AND THEN DISTRIBUTED TO THE BOARD FOR REVIEW ALL QUESTIONS ARE ADDRESSED BY THE PRESIDENT AND THEN THE FORM 990 IS FILED WITH THE IRS

Return Reference	Explanation
FORM 990, PART VI, SECTION B, LINE 12C	THE PRESIDENT REGULARLY MONITORS ALL TRANSACTIONS FOR POTENTIAL CONFLICTS AND IF A POTENTIAL CONFLICT WERE TO BE IDENTIFIED, SHE WOULD BRING THE TRANSACTION TO THE BOARD FOR APPROVAL IF THE PRESIDENT IS THE PERSON WITH A CONFLICT, SHE WOULD ABSTAIN FROM VOTING AND THE INDEPENDENT BOARD MEMBERS WOULD DETERMINE IF THE TRANSACTION WAS IN THE BEST INTEREST OF THE COALITION

990 Schedule O, Supplemental Information

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Return Reference	Explanation
Form 990, Part VI, Section B, Line 19	THE ORGANIZATION MAKES ITS GOVERNING DOCUMENTS, CONFLICT OF INTEREST POLICY AND FINANCIAL STATEMENTS AVAILABLE TO THE PUBLIC UPON REQUEST

efile GRAPHIC print - DO NOT PROCESS

As Filed Data -

DLN: 93493142012490

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Return of Organization Exempt From Income Tax

OMB No 1545-0047

2019

Open to Public Inspection

Form 990

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

Do not enter social security numbers on this form as it may be made public

Go to www.irs.gov/Form990 for instructions and the latest information.

Department of the Treasury
Internal Revenue Service

A For the 2019 calendar year, or tax year beginning 01-01-2019 , and ending 12-31-2019

B Check if applicable

☐ Address change

☐ Name change

☐ Initial return

☐ Final return/terminated

☐ Amended return

☐ Application pending

C Name of organization

COALITION FOR GOOD GOVERNANCE

% LISA CYRIACKS

Doing business as

Number and street (or P O box if mail is not delivered to street address)

1520 CRESS COURT

Room/suite

City or town, state or province, country, and ZIP or foreign postal code

BOULDER, CO 80304

F Name and address of principal officer

LISA CYRIACKS

PO BOX 754

CRESTONE, CO 81131

H(a) Is this a group return for subordinates?

☐ Yes ☒ No

H(b) Are all subordinates included?

☐ Yes ☐ No

If "No," attach a list (see instructions)

H(c) Group exemption number ▶

I Tax-exempt status

☒ 501(c)(3) ☐ 501(c) () ◀(insert no) ☐ 4947(a)(1) or ☐ 527

J Website: ▶

COALITIONFORGOODGOVERNANCE.ORG/

K Form of organization

☒ Corporation ☐ Trust ☐ Association ☐ Other ▶

L Year of formation

2008

M State of legal domicile

CO

Part I Summary

1 Briefly describe the organization's mission or most significant activities

ADVOCATING FOR VOTERS' RIGHT TO A VERIFIABLE ELECTION EDUCATE VOTERS TO THE IMPORTANCE OF Election SECURITY AND PROTECT VOTERS' RIGHTS TO HAVE BALLOTS COUNTED

2 Check this box ☐ if the organization discontinued its operations or disposed of more than 25% of its net assets

3 Number of voting members of the governing body (Part VI, line 1a)

3

3

4 Number of independent voting members of the governing body (Part VI, line 1b)

4

3

5 Total number of individuals employed in calendar year 2019 (Part V, line 2a)

5

0

6 Total number of volunteers (estimate if necessary)

6

6

7a Total unrelated business revenue from Part VIII, column (C), line 12

7a

0

7b Net unrelated business taxable income from Form 990-T, line 39

7b

Revenue

8 Contributions and grants (Part VIII, line 1h)

218,953

365,904

9 Program service revenue (Part VIII, line 2g)

0

0

10 Investment income (Part VIII, column (A), lines 3, 4, and 7d)

37

86

11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)

0

21,013

12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)

218,990

387,003

Expenses

13 Grants and similar amounts paid (Part IX, column (A), lines 1–3)

0

0

14 Benefits paid to or for members (Part IX, column (A), line 4)

0

0

15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5–10)

0

0

16a Professional fundraising fees (Part IX, column (A), line 11e)

0

0

b Total fundraising expenses (Part IX, column (D), line 25) ▶0

17 Other expenses (Part IX, column (A), lines 11a–11d, 11f–24e)

193,081

403,803

18 Total expenses Add lines 13–17 (must equal Part IX, column (A), line 25)

193,081

403,803

19 Revenue less expenses Subtract line 18 from line 12

25,909

-16,800

Net Assets or Fund Balances

20 Total assets (Part X, line 16)

53,615

36,815

21 Total liabilities (Part X, line 26)

0

0

22 Net assets or fund balances Subtract line 21 from line 20

53,615

36,815

Part II Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge

Sign Here

Signature of officer

2020-05-15

Date

LISA A CYRIACKS PRESIDENT

Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name

Preparer's signature

Date 2020-06-15

Check ☐ if self-employed

PTIN P00958966

Firm's name ▶ BKD LLP

Firm's EIN ▶

Firm's address ▶ 111 South Tejon Suite 800

Phone no (719) 471-4290

Colorado Springs, CO 809039848

May the IRS discuss this return with the preparer shown above? (see instructions)

☒ Yes ☐ No

For Paperwork Reduction Act Notice, see the separate instructions.

Cat No 11282Y

Form 990 (2019)

Exhibit

CGG 0008

Part III Statement of Program Service Accomplishments

Check if Schedule O contains a response or note to any line in this Part III ☒

1 Briefly describe the organization's mission

THE INTERESTS OF COALITION FOR GOOD GOVERNANCE ARE CONSTITUTIONAL LIBERTIES AND THE INDIVIDUAL RIGHTS OF CITIZENS, WITH EMPHASIS ON FIRST AMENDMENT RIGHT, ELECTIONS, GOVERNMENT TRANSPARENCY AND ACCOUNTABILITY, OPEN RECORDS AND OPEN MEETINGS, DUE PROCESS, AND EQUAL PROTECTION OF THE LAWS IT WILL ENGAGE IN LITIGATION AS WELL AS PROVIDE MONETARY SUPPORT FOR LEGAL EXPENSES TO OTHER ORGANIZATIONS ENGAGED IN LITIGATION ON THESE ISSUES IT WILL ALSO INFORM LEGISLATIVE POLICY AND PERFORM INDEPENDENT RESEARCH AND ANALYSIS IN THE FOREGOING SUBJECT AREAS LASTLY, THE ORGANIZATION WILL USE GENERALLY AVAILABLE MEANS OF EDUCATION AND COMMUNICATION TO ILLUMINATE AND SHARE PUBLIC DEBATES ESPECIALLY AS ITS SUBJECTS OF INTEREST APPEAR TO BEAR UPON THE CITIZENS OF COLORADO AND THE REGION

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ?

☐ Yes ☒ No

If "Yes," describe these new services on Schedule O

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services?

☐ Yes ☒ No

If "Yes," describe these changes on Schedule O

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported

4a	(Code)	(Expenses \$	193,248	including grants of \$	(Revenue \$	21,013)
See Additional Data						



4b	(Code)	(Expenses \$	123,061	including grants of \$	(Revenue \$)
See Additional Data						

4c	(Code)	(Expenses \$	53,037	including grants of \$	(Revenue \$)
See Additional Data						

4d Other program services (Describe in Schedule O)

(Expenses \$	including grants of \$	(Revenue \$)
--------------	------------------------	-------------	---

4e Total program service expenses	369,346
--	---------

	Yes	No
1 Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? If "Yes," complete Schedule A 	1 Yes	
2 Is the organization required to complete Schedule B, Schedule of Contributors (see instructions)? 	2 Yes	
3 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? If "Yes," complete Schedule C, Part I	3	No
4 Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? If "Yes," complete Schedule C, Part II	4	No
5 Is the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization that receives membership dues, assessments, or similar amounts as defined in Revenue Procedure 98-19? If "Yes," complete Schedule C, Part III	5	
6 Did the organization maintain any donor advised funds or any similar funds or accounts for which donors have the right to provide advice on the distribution or investment of amounts in such funds or accounts? If "Yes," complete Schedule D, Part I	6	No
7 Did the organization receive or hold a conservation easement, including easements to preserve open space, the environment, historic land areas, or historic structures? If "Yes," complete Schedule D, Part II	7	No
8 Did the organization maintain collections of works of art, historical treasures, or other similar assets? If "Yes," complete Schedule D, Part III	8	No
9 Did the organization report an amount in Part X, line 21 for escrow or custodial account liability, serve as a custodian for amounts not listed in Part X, or provide credit counseling, debt management, credit repair, or debt negotiation services? If "Yes," complete Schedule D, Part IV	9	No
10 Did the organization, directly or through a related organization, hold assets in temporarily restricted endowments, permanent endowments, or quasi endowments? If "Yes," complete Schedule D, Part V	10	No
11 If the organization's answer to any of the following questions is "Yes," then complete Schedule D, Parts VI, VII, VIII, IX, or X as applicable		
a Did the organization report an amount for land, buildings, and equipment in Part X, line 10? If "Yes," complete Schedule D, Part VI	11a	No
b Did the organization report an amount for investments—other securities in Part X, line 12 that is 5% or more of its total assets reported in Part X, line 16? If "Yes," complete Schedule D, Part VII	11b	No
c Did the organization report an amount for investments—program related in Part X, line 13 that is 5% or more of its total assets reported in Part X, line 16? If "Yes," complete Schedule D, Part VIII	11c	No
d Did the organization report an amount for other assets in Part X, line 15 that is 5% or more of its total assets reported in Part X, line 16? If "Yes," complete Schedule D, Part IX	11d	No
e Did the organization report an amount for other liabilities in Part X, line 25? If "Yes," complete Schedule D, Part X	11e	No
f Did the organization's separate or consolidated financial statements for the tax year include a footnote that addresses the organization's liability for uncertain tax positions under FIN 48 (ASC 740)? If "Yes," complete Schedule D, Part X	11f	No
12a Did the organization obtain separate, independent audited financial statements for the tax year? If "Yes," complete Schedule D, Parts XI and XII	12a	No
b Was the organization included in consolidated, independent audited financial statements for the tax year? If "Yes," and if the organization answered "No" to line 12a, then completing Schedule D, Parts XI and XII is optional	12b	No
13 Is the organization a school described in section 170(b)(1)(A)(ii)? If "Yes," complete Schedule E	13	No
14a Did the organization maintain an office, employees, or agents outside of the United States?	14a	No
b Did the organization have aggregate revenues or expenses of more than \$10,000 from grantmaking, fundraising, business, investment, and program service activities outside the United States, or aggregate foreign investments valued at \$100,000 or more? If "Yes," complete Schedule F, Parts I and IV	14b	No
15 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of grants or other assistance to or for any foreign organization? If "Yes," complete Schedule F, Parts II and IV	15	No
16 Did the organization report on Part IX, column (A), line 3, more than \$5,000 of aggregate grants or other assistance to or for foreign individuals? If "Yes," complete Schedule F, Parts III and IV	16	No
17 Did the organization report a total of more than \$15,000 of expenses for professional fundraising services on Part IX, column (A), lines 6 and 11e? If "Yes," complete Schedule G, Part I (see instructions)	17	No
18 Did the organization report more than \$15,000 total of fundraising event gross income and contributions on Part VIII, lines 1c and 8a? If "Yes," complete Schedule G, Part II	18	No
19 Did the organization report more than \$15,000 of gross income from gaming activities on Part VIII, line 9a? If "Yes," complete Schedule G, Part III	19	No
20a Did the organization operate one or more hospital facilities? If "Yes," complete Schedule H	20a	No
b If "Yes" to line 20a, did the organization attach a copy of its audited financial statements to this return?	20b	
21 Did the organization report more than \$5,000 of grants or other assistance to any domestic organization or domestic government on Part IX, column (A), line 1? If "Yes," complete Schedule I, Parts I and II	21	No

	Yes	No
22 Did the organization report more than \$5,000 of grants or other assistance to or for domestic individuals on Part IX, column (A), line 2? <i>If "Yes," complete Schedule I, Parts I and III</i>		No
23 Did the organization answer "Yes" to Part VII, Section A, line 3, 4, or 5 about compensation of the organization's current and former officers, directors, trustees, key employees, and highest compensated employees? <i>If "Yes," complete Schedule J</i>		No
24a Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than \$100,000 as of the last day of the year, that was issued after December 31, 2002? <i>If "Yes," answer lines 24b through 24d and complete Schedule K. If "No," go to line 25a</i>		No
b Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?		
c Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease any tax-exempt bonds?		
d Did the organization act as an "on behalf of" issuer for bonds outstanding at any time during the year?		
25a Section 501(c)(3), 501(c)(4), and 501(c)(29) organizations. Did the organization engage in an excess benefit transaction with a disqualified person during the year? <i>If "Yes," complete Schedule L, Part I</i>		No
b Is the organization aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? <i>If "Yes," complete Schedule L, Part I</i>		No
26 Did the organization report any amount on Part X, line 5 or 22 for receivables from or payables to any current or former officer, director, trustee, key employee, creator or founder, substantial contributor, or 35% controlled entity or family member of any of these persons? <i>If "Yes," complete Schedule L, Part II</i>		No
27 Did the organization provide a grant or other assistance to any current or former officer, director, trustee, key employee, creator or founder, substantial contributor, or employee thereof, a grant selection committee member, or to a 35% controlled entity (including an employee thereof) or family member of any of these persons? <i>If "Yes," complete Schedule L, Part III</i>		No
28 Was the organization a party to a business transaction with one of the following parties (see Schedule L, Part IV instructions for applicable filing thresholds, conditions, and exceptions)		
a A current or former officer, director, trustee, key employee, creator or founder, or substantial contributor? <i>If "Yes," complete Schedule L, Part IV</i>		No
b A family member of any individual described in line 28a? <i>If "Yes," complete Schedule L, Part IV</i>		No
c A 35% controlled entity of one or more individuals and/or organizations described in lines 28a or 28b? <i>If "Yes," complete Schedule L, Part IV</i>		No
29 Did the organization receive more than \$25,000 in non-cash contributions? <i>If "Yes," complete Schedule M</i>		No
30 Did the organization receive contributions of art, historical treasures, or other similar assets, or qualified conservation contributions? <i>If "Yes," complete Schedule M</i>		No
31 Did the organization liquidate, terminate, or dissolve and cease operations? <i>If "Yes," complete Schedule N, Part I</i>		No
32 Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? <i>If "Yes," complete Schedule N, Part II</i>		No
33 Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? <i>If "Yes," complete Schedule R, Part I</i>		No
34 Was the organization related to any tax-exempt or taxable entity? <i>If "Yes," complete Schedule R, Part II, III, or IV, and Part V, line 1</i>		No
35a Did the organization have a controlled entity within the meaning of section 512(b)(13)?		No
b If 'Yes' to line 35a, did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)? <i>If "Yes," complete Schedule R, Part V, line 2</i>		
36 Section 501(c)(3) organizations. Did the organization make any transfers to an exempt non-charitable related organization? <i>If "Yes," complete Schedule R, Part V, line 2</i>		No
37 Did the organization conduct more than 5% of its activities through an entity that is not a related organization and that is treated as a partnership for federal income tax purposes? <i>If "Yes," complete Schedule R, Part VI</i>		No
38 Did the organization complete Schedule O and provide explanations in Schedule O for Part VI, lines 11b and 19? Note. All Form 990 filers are required to complete Schedule O	Yes	

Part V		Statements Regarding Other IRS Filings and Tax Compliance	Yes	No
Check if Schedule O contains a response or note to any line in this Part V <input type="checkbox"/>				
1a	Enter the number reported in Box 3 of Form 1096. Enter -0- if not applicable	1a	7	
b	Enter the number of Forms W-2G included in line 1a. Enter -0- if not applicable	1b	0	
c	Did the organization comply with backup withholding rules for reportable payments to vendors and reportable gaming (gambling) winnings to prize winners?	1c		

Part V Statements Regarding Other IRS Filings and Tax Compliance			
2a	Enter the number of employees reported on Form W-3, Transmittal of Wage and Tax Statements, filed for the calendar year ending with or within the year covered by this return	2a	0
b	If at least one is reported on line 2a, did the organization file all required federal employment tax returns? Note. If the sum of lines 1a and 2a is greater than 250, you may be required to e-file (see instructions)	2b	
3a	Did the organization have unrelated business gross income of \$1,000 or more during the year?	3a	No
b	If "Yes," has it filed a Form 990-T for this year? If "No" to line 3b, provide an explanation in Schedule O	3b	
4a	At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)? . . .	4a	No
b	If "Yes," enter the name of the foreign country ▶ See instructions for filing requirements for FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR)		
5a	Was the organization a party to a prohibited tax shelter transaction at any time during the tax year?	5a	No
b	Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?	5b	No
c	If "Yes," to line 5a or 5b, did the organization file Form 8886-T?	5c	
6a	Does the organization have annual gross receipts that are normally greater than \$100,000, and did the organization solicit any contributions that were not tax deductible as charitable contributions?	6a	No
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?	6b	
7 Organizations that may receive deductible contributions under section 170(c).			
a	Did the organization receive a payment in excess of \$75 made partly as a contribution and partly for goods and services provided to the payor?	7a	No
b	If "Yes," did the organization notify the donor of the value of the goods or services provided?	7b	
c	Did the organization sell, exchange, or otherwise dispose of tangible personal property for which it was required to file Form 8282?	7c	
d	If "Yes," indicate the number of Forms 8282 filed during the year	7d	
e	Did the organization receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?	7e	No
f	Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?	7f	No
g	If the organization received a contribution of qualified intellectual property, did the organization file Form 8899 as required?	7g	
h	If the organization received a contribution of cars, boats, airplanes, or other vehicles, did the organization file a Form 1098-C?	7h	
8	Sponsoring organizations maintaining donor advised funds. Did a donor advised fund maintained by the sponsoring organization have excess business holdings at any time during the year?	8	
9	Sponsoring organizations maintaining donor advised funds.		
a	Did the sponsoring organization make any taxable distributions under section 4966?	9a	
b	Did the sponsoring organization make a distribution to a donor, donor advisor, or related person?	9b	
10 Section 501(c)(7) organizations. Enter			
a	Initiation fees and capital contributions included on Part VIII, line 12	10a	
b	Gross receipts, included on Form 990, Part VIII, line 12, for public use of club facilities	10b	
11 Section 501(c)(12) organizations. Enter			
a	Gross income from members or shareholders	11a	
b	Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them)	11b	
12a Section 4947(a)(1) non-exempt charitable trusts. Is the organization filing Form 990 in lieu of Form 1041?		12a	
b	If "Yes," enter the amount of tax-exempt interest received or accrued during the year	12b	
13 Section 501(c)(29) qualified nonprofit health insurance issuers.			
a	Is the organization licensed to issue qualified health plans in more than one state? Note. See the instructions for additional information the organization must report on Schedule O	13a	
b	Enter the amount of reserves the organization is required to maintain by the states in which the organization is licensed to issue qualified health plans	13b	
c	Enter the amount of reserves on hand	13c	
14a	Did the organization receive any payments for indoor tanning services during the tax year?	14a	No
b	If "Yes," has it filed a Form 720 to report these payments? If "No," provide an explanation in Schedule O	14b	
15	Is the organization subject to the section 4960 tax on payment(s) of more than \$1,000,000 in remuneration or excess parachute payment(s) during the year? If "Yes," see instructions and file Form 4720, Schedule N	15	No
16	Is the organization an educational institution subject to the section 4968 excise tax on net investment income? . . . If "Yes," complete Form 4720, Schedule O	16	No

Part VI

Governance, Management, and Disclosure For each "Yes" response to lines 2 through 7, below, and for a "No" response to lines 8a, 8b, or 10b below, describe the circumstances, processes, or changes in Schedule O. See instructions.
Check if Schedule O contains a response or note to any line in this Part VI ☒

Section A. Governing Body and Management

		Yes	No
1a Enter the number of voting members of the governing body at the end of the tax year	1a 3		
If there are material differences in voting rights among members of the governing body, or if the governing body delegated broad authority to an executive committee or similar committee, explain in Schedule O			
b Enter the number of voting members included in line 1a, above, who are independent	1b 3		
2 Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee?	2		No
3 Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors or trustees, or key employees to a management company or other person?	3		No
4 Did the organization make any significant changes to its governing documents since the prior Form 990 was filed?	4		No
5 Did the organization become aware during the year of a significant diversion of the organization's assets?	5		No
6 Did the organization have members or stockholders?	6		No
7a Did the organization have members, stockholders, or other persons who had the power to elect or appoint one or more members of the governing body?	7a		No
b Are any governance decisions of the organization reserved to (or subject to approval by) members, stockholders, or persons other than the governing body?	7b		No
8 Did the organization contemporaneously document the meetings held or written actions undertaken during the year by the following			
a The governing body?	8a	Yes	
b Each committee with authority to act on behalf of the governing body?	8b	Yes	
9 Is there any officer, director, trustee, or key employee listed in Part VII, Section A, who cannot be reached at the organization's mailing address? If "Yes," provide the names and addresses in Schedule O	9		No

Section B. Policies (This Section B requests information about policies not required by the Internal Revenue Code.)

		Yes	No
10a Did the organization have local chapters, branches, or affiliates?	10a		No
b If "Yes," did the organization have written policies and procedures governing the activities of such chapters, affiliates, and branches to ensure their operations are consistent with the organization's exempt purposes?	10b		
11a Has the organization provided a complete copy of this Form 990 to all members of its governing body before filing the form?	11a	Yes	
b Describe in Schedule O the process, if any, used by the organization to review this Form 990			
12a Did the organization have a written conflict of interest policy? If "No," go to line 13	12a	Yes	
b Were officers, directors, or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	12b	Yes	
c Did the organization regularly and consistently monitor and enforce compliance with the policy? If "Yes," describe in Schedule O how this was done	12c	Yes	
13 Did the organization have a written whistleblower policy?	13		No
14 Did the organization have a written document retention and destruction policy?	14	Yes	
15 Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?			
a The organization's CEO, Executive Director, or top management official	15a		No
b Other officers or key employees of the organization	15b		No
If "Yes" to line 15a or 15b, describe the process in Schedule O (see instructions)			
16a Did the organization invest in, contribute assets to, or participate in a joint venture or similar arrangement with a taxable entity during the year?	16a		No
b If "Yes," did the organization follow a written policy or procedure requiring the organization to evaluate its participation in joint venture arrangements under applicable federal tax law, and take steps to safeguard the organization's exempt status with respect to such arrangements?	16b		

Section C. Disclosure

17 List the states with which a copy of this Form 990 is required to be filed▶

18 Section 6104 requires an organization to make its Form 1023 (or 1024-A if applicable), 990, and 990-T (501(c)(3)s only) available for public inspection. Indicate how you made these available. Check all that apply.
☐ Own website ☐ Another's website ☒ Upon request ☐ Other (explain in Schedule O)

19 Describe in Schedule O whether (and if so, how) the organization made its governing documents, conflict of interest policy, and financial statements available to the public during the tax year.

20 State the name, address, and telephone number of the person who possesses the organization's books and records
▶LISA CYRIACKS 504 ARROWHEAD WAY CRESTONE, CO 81131 (719) 256-4140

1a Complete this table for all persons required to be listed. Report compensation for the calendar year ending with or within the organization's tax year.

- List all of the organization's **current** officers, directors, trustees (whether individuals or organizations), regardless of amount of compensation Enter -0- in columns (D), (E), and (F) if no compensation was paid
- List all of the organization's **current** key employees, if any See instructions for definition of "key employee "
- List the organization's five **current** highest compensated employees (other than an officer, director, trustee or key employee) who received reportable compensation (Box 5 of Form W-2 and/or Box 7 of Form 1099-MISC) of more than \$100,000 from the organization and any related organizations
- List all of the organization's **former** officers, key employees, or highest compensated employees who received more than \$100,000 of reportable compensation from the organization and any related organizations
- List all of the organization's **former directors or trustees** that received, in the capacity as a former director or trustee of the organization, more than \$10,000 of reportable compensation from the organization and any related organizations

See instructions for the order in which to list the persons above

☒ Check this box if neither the organization nor any related organization compensated any current officer, director, or trustee

[illegible]

1b Sub-Total			
c Total from continuation sheets to Part VII, Section A			
d Total (add lines 1b and 1c)	0	0	0

2 Total number of individuals (including but not limited to those listed above) who received more than \$100,000 of reportable compensation from the organization ▶ 0

		Yes	No
3	Did the organization list any former officer, director or trustee, key employee, or highest compensated employee on line 1a? <i>If "Yes," complete Schedule J for such individual</i>	3	No
4	For any individual listed on line 1a, is the sum of reportable compensation and other compensation from the organization and related organizations greater than \$150,000? <i>If "Yes," complete Schedule J for such individual</i>	4	No
5	Did any person listed on line 1a receive or accrue compensation from any unrelated organization or individual for services rendered to the organization? <i>If "Yes," complete Schedule J for such person</i>	5	No

Section B. Independent Contractors

1 Complete this table for your five highest compensated independent contractors that received more than \$100,000 of compensation from the organization. Report compensation for the calendar year ending with or within the organization's tax year.

(A)	(B)	(C)
Name and business address	Description of services	Compensation

2 Total number of independent contractors (including but not limited to those listed above) who received more than \$100,000 of compensation from the organization ► 0

Check if Schedule O contains a response or note to any line in this Part VIII ☐

			(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512 - 514		
Contributions, Gifts, Grants and Other Similar Amounts	1a Federated campaigns . . .	1a						
	b Membership dues . . .	1b						
	c Fundraising events . . .	1c						
	d Related organizations	1d						
	e Government grants (contributions)	1e						
	f All other contributions, gifts, grants, and similar amounts not included above	1f	365,904					
	g Noncash contributions included in lines 1a - 1f \$	1g						
	h Total. Add lines 1a-1f ▶			365,904				
Program Service Revenue	2a	Business Code						
	b							
	c							
	d							
	e							
	f All other program service revenue							
	g Total. Add lines 2a-2f. ▶		0					
Other Revenue	3 Investment income (including dividends, interest, and other similar amounts) ▶		86			86		
	4 Income from investment of tax-exempt bond proceeds ▶		0					
	5 Royalties ▶		0					
	6a Gross rents	(i) Real	(ii) Personal					
		6a						
		b Less rental expenses	6b					
		c Rental income or (loss)	6c					0
	d Net rental income or (loss) ▶		0					
	7a Gross amount from sales of assets other than inventory	(i) Securities	(ii) Other					
		7a						
		b Less cost or other basis and sales expenses	7b					
		c Gain or (loss)	7c					
	d Net gain or (loss) ▶		0					
	8a Gross income from fundraising events (not including \$ _____ of contributions reported on line 1c) See Part IV, line 18							
		8a	0					
		b Less direct expenses	8b					0
	c Net income or (loss) from fundraising events . . . ▶		0					
	9a Gross income from gaming activities See Part IV, line 19							
		9a	0					
		b Less direct expenses	9b					0
	c Net income or (loss) from gaming activities . . . ▶		0					
	10a Gross sales of inventory, less returns and allowances . . .							
10a		0						
b Less cost of goods sold . . .		10b	0					
c Net income or (loss) from sales of inventory . . . ▶		0						
Miscellaneous Revenue		Business Code	21,013	21,013				
11a REFUND OF LEGAL FEES		900099						
b								
c								
d All other revenue								
e Total. Add lines 11a-11d ▶		21,013						
12 Total revenue. See instructions ▶		387,003	21,013			86		

Part IX **Statement of Functional Expenses** **Case 1:19-cv-02089-AT Document 1565 Filed 01/07/23 Page 594 of 721**

Section 501(c)(3) and 501(c)(4) organizations must complete all columns. All other organizations must complete column (A).

Check if Schedule O contains a response or note to any line in this Part IX ☐

Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to domestic organizations and domestic governments. See Part IV, line 21.	0			
2 Grants and other assistance to domestic individuals. See Part IV, line 22.	0			
3 Grants and other assistance to foreign organizations, foreign governments, and foreign individuals. See Part IV, lines 15 and 16.	0			
4 Benefits paid to or for members.	0			
5 Compensation of current officers, directors, trustees, and key employees.	0			
6 Compensation not included above, to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B).	0			
7 Other salaries and wages.	0			
8 Pension plan accruals and contributions (include section 401 (k) and 403(b) employer contributions).	0			
9 Other employee benefits.	0			
10 Payroll taxes.	0			
11 Fees for services (non-employees):				
a Management.	0			
b Legal.	387,404	369,346	18,058	
c Accounting.	3,000		3,000	
d Lobbying.	0			
e Professional fundraising services. See Part IV, line 17.	0			
f Investment management fees.	0			
g Other (If line 11g amount exceeds 10% of line 25, column (A) amount, list line 11g expenses on Schedule O).	0			
12 Advertising and promotion.	0			
13 Office expenses.	4,199		4,199	
14 Information technology.	0			
15 Royalties.	0			
16 Occupancy.	985		985	
17 Travel.	7,555		7,555	
18 Payments of travel or entertainment expenses for any federal, state, or local public officials.	0			
19 Conferences, conventions, and meetings.	0			
20 Interest.	0			
21 Payments to affiliates.	0			
22 Depreciation, depletion, and amortization.	0			
23 Insurance.	660		660	
24 Other expenses. Itemize expenses not covered above (List miscellaneous expenses in line 24e. If line 24e amount exceeds 10% of line 25, column (A) amount, list line 24e expenses on Schedule O):				
a				
b				
c				
d				
e All other expenses.				
25 Total functional expenses. Add lines 1 through 24e.	403,803	369,346	34,457	0
26 Joint costs. Complete this line only if the organization reported in column (B) joint costs from a combined educational campaign and fundraising solicitation. Check here <input type="checkbox"/> if following SOP 98-2 (ASC 958-720).				

Check if Schedule O contains a response or note to any line in this Part IX ☐

		(A) Beginning of year		(B) End of year
Assets	1 Cash—non-interest-bearing	53,615	1	36,815
	2 Savings and temporary cash investments	0	2	0
	3 Pledges and grants receivable, net	0	3	0
	4 Accounts receivable, net	0	4	0
	5 Loans and other payables to any current or former officer, director, trustee, key employee, creator or founder, substantial contributor, or 35% controlled entity or family member of any of these persons	0	5	0
	6 Loans and other receivables from other disqualified persons (as defined under section 4958(f)(1)), and persons described in section 4958(c)(3)(B)	0	6	0
	7 Notes and loans receivable, net	0	7	0
	8 Inventories for sale or use	0	8	0
	9 Prepaid expenses and deferred charges	0	9	0
	10a Land, buildings, and equipment—cost or other basis. Complete Part VI of Schedule D			
	b Less accumulated depreciation	0	10c	0
	11 Investments—publicly traded securities	0	11	0
	12 Investments—other securities. See Part IV, line 11	0	12	0
	13 Investments—program-related. See Part IV, line 11	0	13	0
	14 Intangible assets	0	14	0
	15 Other assets. See Part IV, line 11	0	15	0
16 Total assets. Add lines 1 through 15 (must equal line 34)	53,615	16	36,815	
Liabilities	17 Accounts payable and accrued expenses	0	17	0
	18 Grants payable	0	18	0
	19 Deferred revenue	0	19	0
	20 Tax-exempt bond liabilities	0	20	0
	21 Escrow or custodial account liability. Complete Part IV of Schedule D	0	21	0
	22 Loans and other payables to any current or former officer, director, trustee, key employee, creator or founder, substantial contributor, or 35% controlled entity or family member of any of these persons	0	22	0
	23 Secured mortgages and notes payable to unrelated third parties	0	23	0
	24 Unsecured notes and loans payable to unrelated third parties	0	24	0
	25 Other liabilities (including federal income tax, payables to related third parties, and other liabilities not included on lines 17 - 24). Complete Part X of Schedule D	0	25	0
	26 Total liabilities. Add lines 17 through 25	0	26	0
Net Assets or Fund Balances	Organizations that follow FASB ASC 958, check here <input type="checkbox"/> and complete lines 27, 28, 32, and 33.			
	27 Net assets without donor restrictions		27	
	28 Net assets with donor restrictions		28	
	Organizations that do not follow FASB ASC 958, check here <input checked="" type="checkbox"/> and complete lines 29 through 33.			
	29 Capital stock or trust principal, or current funds	0	29	0
	30 Paid-in or capital surplus, or land, building or equipment fund	0	30	0
	31 Retained earnings, endowment, accumulated income, or other funds	53,615	31	36,815
	32 Total net assets or fund balances	53,615	32	36,815
33 Total liabilities and net assets/fund balances	53,615	33	36,815	

Part XI **Reconciliation of Net Assets**

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Check if Schedule O contains a response or note to any line in this Part XI ☐

1	Total revenue (must equal Part VIII, column (A), line 12)	1	387,003
2	Total expenses (must equal Part IX, column (A), line 25)	2	403,803
3	Revenue less expenses Subtract line 2 from line 1	3	-16,800
4	Net assets or fund balances at beginning of year (must equal Part X, line 33, column (A))	4	53,615
5	Net unrealized gains (losses) on investments	5	
6	Donated services and use of facilities	6	
7	Investment expenses	7	
8	Prior period adjustments	8	
9	Other changes in net assets or fund balances (explain in Schedule O)	9	
10	Net assets or fund balances at end of year Combine lines 3 through 9 (must equal Part X, line 33, column (B))	10	36,815

Part XII **Financial Statements and Reporting**Check if Schedule O contains a response or note to any line in this Part XII ☐

- 1** Accounting method used to prepare the Form 990 ☐ Cash ☒ Accrual ☐ Other _____
If the organization changed its method of accounting from a prior year or checked "Other," explain in Schedule O
- 2a** Were the organization's financial statements compiled or reviewed by an independent accountant?
If 'Yes,' check a box below to indicate whether the financial statements for the year were compiled or reviewed on a separate basis, consolidated basis, or both
☐ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis
- b** Were the organization's financial statements audited by an independent accountant?
If 'Yes,' check a box below to indicate whether the financial statements for the year were audited on a separate basis, consolidated basis, or both
☐ Separate basis ☐ Consolidated basis ☐ Both consolidated and separate basis
- c** If "Yes," to line 2a or 2b, does the organization have a committee that assumes responsibility for oversight of the audit, review, or compilation of its financial statements and selection of an independent accountant?
If the organization changed either its oversight process or selection process during the tax year, explain in Schedule O
- 3a** As a result of a federal award, was the organization required to undergo an audit or audits as set forth in the Single Audit Act and OMB Circular A-133?
- b** If "Yes," did the organization undergo the required audit or audits? If the organization did not undergo the required audit or audits, explain why in Schedule O and describe any steps taken to undergo such audits

	Yes	No
2a		No
2b		No
2c		
3a		No
3b		

Additional Data

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Software ID:

Software Version:

EIN: 26-3670783

Name: COALITION FOR GOOD GOVERNANCE

Form 990 (2019)

Form 990, Part III, Line 4a:

ADVOCATING FOR VOTERS' RIGHT TO A VERIFIABLE ELECTION, CGG LITIGATED IN FEDERAL COURT AGAINST GEORGIA'S USE OF AN UNVERIFIABLE PAPERLESS TOUCHSCREEN SYSTEM AND EDUCATED GA VOTERS ON THE IMPORTANCE OF USING AN ELECTION SYSTEM THAT INCLUDES EITHER PAPER BALLOTS OR CREATES A PAPER TRAIL

Form 990, Part III, Line 4b:

LITIGATION ON THE PART OF GEORGIA VOTERS TO FORCE INVESTIGATION AND CORRECTION OF DEFECTS CAUSING DISCREPANCIES IN VOTING SYSTEM LITIGATION
RESULTED IN IDENTIFYING AND INCLUSION OF VOTES THAT OTHERWISE WOULD NOT HAVE BEEN COUNTED

Form 990, Part III, Line 4c:

CHALLENGED STATE OF GEORGIA'S DISCRIMINATORY POLICIES ON ABSENTEE BALLOTS THIS PROTECTED VOTERS' RIGHT TO FILE AND ABSENTEE BALLOT AND RESULTED
IN THOUSANDS OF BALLOTS BEING COUNTED THAT OTHERWISE WOULD HAVE BEEN REJECTED

Public Charity Status and Public Support

2019

Open to Public Inspection

Employer identification number

26-3670783

The organization is not a private foundation because it is (For lines 1 through 12, check only one box.)

- ☐ 1 A church, convention of churches, or association of churches described in **section 170(b)(1)(A)(i)**.
- ☐ 2 A school described in **section 170(b)(1)(A)(ii)**. (Attach Schedule E (Form 990 or 990-EZ))
- ☐ 3 A hospital or a cooperative hospital service organization described in **section 170(b)(1)(A)(iii)**.
- ☐ 4 A medical research organization operated in conjunction with a hospital described in **section 170(b)(1)(A)(iii)**. Enter the hospital's name, city, and state
- ☐ 5 An organization operated for the benefit of a college or university owned or operated by a governmental unit described in **section 170(b)(1)(A)(iv)**. (Complete Part II)
- ☐ 6 A federal, state, or local government or governmental unit described in **section 170(b)(1)(A)(v)**.
- ☒ 7 An organization that normally receives a substantial part of its support from a governmental unit or from the general public described in **section 170(b)(1)(A)(vi)**. (Complete Part II)
- ☐ 8 A community trust described in **section 170(b)(1)(A)(vi)** (Complete Part II)
- ☐ 9 An agricultural research organization described in **170(b)(1)(A)(ix)** operated in conjunction with a land-grant college or university or a non-land grant college of agriculture See instructions Enter the name, city, and state of the college or university
- ☐ 10 An organization that normally receives (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions—subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975 See **section 509(a)(2)**. (Complete Part III)
- ☐ 11 An organization organized and operated exclusively to test for public safety See **section 509(a)(4)**.
- ☐ 12 An organization organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more publicly supported organizations described in **section 509(a)(1)** or **section 509(a)(2)**. See **section 509(a)(3)**. Check the box in lines 12a through 12d that describes the type of supporting organization and complete lines 12e, 12f, and 12g
 - ☐ a **Type I.** A supporting organization operated, supervised, or controlled by its supported organization(s), typically by giving the supported organization(s) the power to regularly appoint or elect a majority of the directors or trustees of the supporting organization **You must complete Part IV, Sections A and B.**
 - ☐ b **Type II.** A supporting organization supervised or controlled in connection with its supported organization(s), by having control or management of the supporting organization vested in the same persons that control or manage the supported organization(s) **You must complete Part IV, Sections A and C.**
 - ☐ c **Type III functionally integrated.** A supporting organization operated in connection with, and functionally integrated with, its supported organization(s) (see instructions) **You must complete Part IV, Sections A, D, and E.**
 - ☐ d **Type III non-functionally integrated.** A supporting organization operated in connection with its supported organization(s) that is not functionally integrated The organization generally must satisfy a distribution requirement and an attentiveness requirement (see instructions) **You must complete Part IV, Sections A and D, and Part V.**
 - ☐ e Check this box if the organization received a written determination from the IRS that it is a Type I, Type II, Type III functionally integrated, or Type III non-functionally integrated supporting organization
- f Enter the number of supported organizations _____
- g Provide the following information about the supported organization(s)

(i) Name of supported organization	(ii) EIN	(iii) Type of organization (described on lines 1- 10 above (see instructions))	(iv) Is the organization listed in your governing document?		(v) Amount of monetary support (see instructions)	(vi) Amount of other support (see instructions)
			Yes	No		
Total						

Part II

Support Schedule for Organizations Described in Sections 501(c)(1), (A)(iv), and 501(b)(1)(A)(vi)
(Complete only if you checked the box on line 5, 7, or 8 of Part I or if the organization failed to qualify under Part III.
If the organization failed to qualify under the tests listed below, please complete Part III.)

Section A. Public Support						
Calendar year (or fiscal year beginning in) ▶	(a) 2015	(b) 2016	(c) 2017	(d) 2018	(e) 2019	(f) Total
1 Gifts, grants, contributions, and membership fees received (Do not include any "unusual grant.")	6,010	0	117,663	218,953	365,904	708,530
2 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						0
3 The value of services or facilities furnished by a governmental unit to the organization without charge						0
4 Total. Add lines 1 through 3	6,010	0	117,663	218,953	365,904	708,530
5 The portion of total contributions by each person (other than a governmental unit or publicly supported organization) included on line 1 that exceeds 2% of the amount shown on line 11, column (f)						324,931
6 Public support. Subtract line 5 from line 4						383,599

Section B. Total Support							
Calendar year (or fiscal year beginning in) ►		(a) 2015	(b) 2016	(c) 2017	(d) 2018	(e) 2019	(f) Total
7	Amounts from line 4	6,010	0	117,663	218,953	365,904	708,530
8	Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources	186	34	37	37	86	380
9	Net income from unrelated business activities, whether or not the business is regularly carried on						0
10	Other income Do not include gain or loss from the sale of capital assets (Explain in Part VI)						0
11	Total support. Add lines 7 through 10						708,910
12	Gross receipts from related activities, etc (see instructions)					12	21,013
13	First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and stop here ► <input type="checkbox"/>						

Section C. Computation of Public Support Percentage		
14 Public support percentage for 2019 (line 6, column (f) divided by line 11, column (f))	14	54.111 %
15 Public support percentage for 2018 Schedule A, Part II, line 14	15	42.689 %
16a 33 1/3% support test—2019. If the organization did not check the box on line 13, and line 14 is 33 1/3% or more, check this box and stop here . The organization qualifies as a publicly supported organization ▶ <input checked="" type="checkbox"/>		
b 33 1/3% support test—2018. If the organization did not check a box on line 13 or 16a, and line 15 is 33 1/3% or more, check this box and stop here . The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>		
17a 10%-facts-and-circumstances test—2019. If the organization did not check a box on line 13, 16a, or 16b, and line 14 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here . Explain in Part VI how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>		
b 10%-facts-and-circumstances test—2018. If the organization did not check a box on line 13, 16a, 16b, or 17a, and line 15 is 10% or more, and if the organization meets the "facts-and-circumstances" test, check this box and stop here . Explain in Part VI how the organization meets the "facts-and-circumstances" test. The organization qualifies as a publicly supported organization ▶ <input type="checkbox"/>		
18 Private foundation. If the organization did not check a box on line 13, 16a, 16b, 17a, or 17b, check this box and see instructions ▶ <input type="checkbox"/>		

Part III **Support Schedule for Organizations Described in Section 509(a)(2)** **Page 602 of 721**

(Complete only if you checked the box on line 10 of Part I or if the organization failed to qualify under Part II. If the organization fails to qualify under the tests listed below, please complete Part II.)

Section A. Public Support

Calendar year (or fiscal year beginning in) ►	(a) 2015	(b) 2016	(c) 2017	(d) 2018	(e) 2019	(f) Total
1 Gifts, grants, contributions, and membership fees received (Do not include any "unusual grants.")						
2 Gross receipts from admissions, merchandise sold or services performed, or facilities furnished in any activity that is related to the organization's tax-exempt purpose						
3 Gross receipts from activities that are not an unrelated trade or business under section 513						
4 Tax revenues levied for the organization's benefit and either paid to or expended on its behalf						
5 The value of services or facilities furnished by a governmental unit to the organization without charge						
6 Total. Add lines 1 through 5						
7a Amounts included on lines 1, 2, and 3 received from disqualified persons						
b Amounts included on lines 2 and 3 received from other than disqualified persons that exceed the greater of \$5,000 or 1% of the amount on line 13 for the year						
c Add lines 7a and 7b						
8 Public support. (Subtract line 7c from line 6.)						

Section B. Total Support

Calendar year (or fiscal year beginning in) ►	(a) 2015	(b) 2016	(c) 2017	(d) 2018	(e) 2019	(f) Total
9 Amounts from line 6						
10a Gross income from interest, dividends, payments received on securities loans, rents, royalties and income from similar sources						
b Unrelated business taxable income (less section 511 taxes) from businesses acquired after June 30, 1975						
c Add lines 10a and 10b						
11 Net income from unrelated business activities not included in line 10b, whether or not the business is regularly carried on						
12 Other income. Do not include gain or loss from the sale of capital assets (Explain in Part VI.)						
13 Total support. (Add lines 9, 10c, 11, and 12.)						

14 First five years. If the Form 990 is for the organization's first, second, third, fourth, or fifth tax year as a section 501(c)(3) organization, check this box and **stop here** ► ☐

Section C. Computation of Public Support Percentage

15 Public support percentage for 2019 (line 8, column (f) divided by line 13, column (f))	15	
16 Public support percentage from 2018 Schedule A, Part III, line 15	16	

Section D. Computation of Investment Income Percentage

17 Investment income percentage for 2019 (line 10c, column (f) divided by line 13, column (f))	17	
18 Investment income percentage from 2018 Schedule A, Part III, line 17	18	

19a 33 1/3% support tests—2019. If the organization did not check the box on line 14, and line 15 is more than 33 1/3%, and line 17 is not more than 33 1/3%, check this box and **stop here**. The organization qualifies as a publicly supported organization ► ☐

b 33 1/3% support tests—2018. If the organization did not check a box on line 14 or line 19a, and line 16 is more than 33 1/3% and line 18 is not more than 33 1/3%, check this box and **stop here**. The organization qualifies as a publicly supported organization ► ☐

20 Private foundation. If the organization did not check a box on line 14, 19a, or 19b, check this box and see instructions ► ☐

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(Complete only if you checked a box on line 12 of Part I. If you checked 12a of Part I, complete Sections A and B. If you checked 12b of Part I, complete Sections A and C. If you checked 12c of Part I, complete Sections A, D, and E. If you checked 12d of Part I, complete Sections A and D, and complete Part V.)

Section A. All Supporting Organizations

	Yes	No
1 Are all of the organization's supported organizations listed by name in the organization's governing documents? If "No," describe in Part VI how the supported organizations are designated. If designated by class or purpose, describe the designation. If historic and continuing relationship, explain.		
1		
2 Did the organization have any supported organization that does not have an IRS determination of status under section 509(a)(1) or (2)? If "Yes," explain in Part VI how the organization determined that the supported organization was described in section 509(a)(1) or (2).		
2		
3a Did the organization have a supported organization described in section 501(c)(4), (5), or (6)? If "Yes," answer (b) and (c) below.		
3a		
b Did the organization confirm that each supported organization qualified under section 501(c)(4), (5), or (6) and satisfied the public support tests under section 509(a)(2)? If "Yes," describe in Part VI when and how the organization made the determination.		
3b		
c Did the organization ensure that all support to such organizations was used exclusively for section 170(c)(2)(B) purposes? If "Yes," explain in Part VI what controls the organization put in place to ensure such use.		
3c		
4a Was any supported organization not organized in the United States ("foreign supported organization")? If "Yes" and if you checked 12a or 12b in Part I, answer (b) and (c) below.		
4a		
b Did the organization have ultimate control and discretion in deciding whether to make grants to the foreign supported organization? If "Yes," describe in Part VI how the organization had such control and discretion despite being controlled or supervised by or in connection with its supported organizations.		
4b		
c Did the organization support any foreign supported organization that does not have an IRS determination under sections 501(c)(3) and 509(a)(1) or (2)? If "Yes," explain in Part VI what controls the organization used to ensure that all support to the foreign supported organization was used exclusively for section 170(c)(2)(B) purposes.		
4c		
5a Did the organization add, substitute, or remove any supported organizations during the tax year? If "Yes," answer (b) and (c) below (if applicable). Also, provide detail in Part VI , including (i) the names and EIN numbers of the supported organizations added, substituted, or removed, (ii) the reasons for each such action, (iii) the authority under the organization's organizing document authorizing such action, and (iv) how the action was accomplished (such as by amendment to the organizing document).		
5a		
b Type I or Type II only. Was any added or substituted supported organization part of a class already designated in the organization's organizing document?		
5b		
c Substitutions only. Was the substitution the result of an event beyond the organization's control?		
5c		
6 Did the organization provide support (whether in the form of grants or the provision of services or facilities) to anyone other than (i) its supported organizations, (ii) individuals that are part of the charitable class benefited by one or more of its supported organizations, or (iii) other supporting organizations that also support or benefit one or more of the filing organization's supported organizations? If "Yes," provide detail in Part VI .		
6		
7 Did the organization provide a grant, loan, compensation, or other similar payment to a substantial contributor (defined in section 4958(c)(3)(C)), a family member of a substantial contributor, or a 35% controlled entity with regard to a substantial contributor? If "Yes," complete Part I of Schedule L (Form 990 or 990-EZ).		
7		
8 Did the organization make a loan to a disqualified person (as defined in section 4958) not described in line 7? If "Yes," complete Part I of Schedule L (Form 990 or 990-EZ).		
8		
9a Was the organization controlled directly or indirectly at any time during the tax year by one or more disqualified persons as defined in section 4946 (other than foundation managers and organizations described in section 509(a)(1) or (2))? If "Yes," provide detail in Part VI .		
9a		
b Did one or more disqualified persons (as defined in line 9a) hold a controlling interest in any entity in which the supporting organization had an interest? If "Yes," provide detail in Part VI .		
9b		
c Did a disqualified person (as defined in line 9a) have an ownership interest in, or derive any personal benefit from, assets in which the supporting organization also had an interest? If "Yes," provide detail in Part VI .		
9c		
10a Was the organization subject to the excess business holdings rules of section 4943 because of section 4943(f) (regarding certain Type II supporting organizations, and all Type III non-functionally integrated supporting organizations)? If "Yes," answer line 10b below.		
10a		
b Did the organization have any excess business holdings in the tax year? (Use Schedule C, Form 4720, to determine whether the organization had excess business holdings).		
10b		

	Yes	No
11 Has the organization accepted a gift or contribution from any of the following persons?		
a A person who directly or indirectly controls, either alone or together with persons described in (b) and (c) below, the governing body of a supported organization?		
b A family member of a person described in (a) above?		
c A 35% controlled entity of a person described in (a) or (b) above? <i>If "Yes" to a, b, or c, provide detail in Part VI</i>		

Section B. Type I Supporting Organizations

	Yes	No
1 Did the directors, trustees, or membership of one or more supported organizations have the power to regularly appoint or elect at least a majority of the organization's directors or trustees at all times during the tax year? <i>If "No," describe in Part VI how the supported organization(s) effectively operated, supervised, or controlled the organization's activities. If the organization had more than one supported organization, describe how the powers to appoint and/or remove directors or trustees were allocated among the supported organizations and what conditions or restrictions, if any, applied to such powers during the tax year.</i>		
2 Did the organization operate for the benefit of any supported organization other than the supported organization(s) that operated, supervised, or controlled the supporting organization? <i>If "Yes," explain in Part VI how providing such benefit carried out the purposes of the supported organization(s) that operated, supervised or controlled the supporting organization.</i>		

Section C. Type II Supporting Organizations

	Yes	No
1 Were a majority of the organization's directors or trustees during the tax year also a majority of the directors or trustees of each of the organization's supported organization(s)? <i>If "No," describe in Part VI how control or management of the supporting organization was vested in the same persons that controlled or managed the supported organization(s).</i>		

Section D. All Type III Supporting Organizations

	Yes	No
1 Did the organization provide to each of its supported organizations, by the last day of the fifth month of the organization's tax year, (i) a written notice describing the type and amount of support provided during the prior tax year, (ii) a copy of the Form 990 that was most recently filed as of the date of notification, and (iii) copies of the organization's governing documents in effect on the date of notification, to the extent not previously provided?		
2 Were any of the organization's officers, directors, or trustees either (i) appointed or elected by the supported organization (s) or (ii) serving on the governing body of a supported organization? <i>If "No," explain in Part VI how the organization maintained a close and continuous working relationship with the supported organization(s).</i>		
3 By reason of the relationship described in (2), did the organization's supported organizations have a significant voice in the organization's investment policies and in directing the use of the organization's income or assets at all times during the tax year? <i>If "Yes," describe in Part VI the role the organization's supported organizations played in this regard.</i>		

Section E. Type III Functionally-Integrated Supporting Organizations

1 Check the box next to the method that the organization used to satisfy the Integral Part Test during the year (see instructions)		
a <input type="checkbox"/> The organization satisfied the Activities Test. Complete line 2 below.		
b <input type="checkbox"/> The organization is the parent of each of its supported organizations. Complete line 3 below.		
c <input type="checkbox"/> The organization supported a governmental entity. Describe in Part VI how you supported a government entity (see instructions).		
2 Activities Test. Answer (a) and (b) below.		
a Did substantially all of the organization's activities during the tax year directly further the exempt purposes of the supported organization(s) to which the organization was responsive? <i>If "Yes," then in Part VI identify those supported organizations and explain how these activities directly furthered their exempt purposes, how the organization was responsive to those supported organizations, and how the organization determined that these activities constituted substantially all of its activities.</i>		
b Did the activities described in (a) constitute activities that, but for the organization's involvement, one or more of the organization's supported organization(s) would have been engaged in? <i>If "Yes," explain in Part VI the reasons for the organization's position that its supported organization(s) would have engaged in these activities but for the organization's involvement.</i>		
3 Parent of Supported Organizations. Answer (a) and (b) below.		
a Did the organization have the power to regularly appoint or elect a majority of the officers, directors, or trustees of each of the supported organizations? <i>Provide details in Part VI.</i>		
b Did the organization exercise a substantial degree of direction over the policies, programs and activities of each of its supported organizations? <i>If "Yes," describe in Part VI the role played by the organization in this regard.</i>		

Part V Type III Non-Functionally Integrated 509(a)(3) Supporting Organizations

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1	<input type="checkbox"/>	Check here if the organization satisfied the Integral Part Test as a qualifying trust on Nov. 20, 1970 (explain in Part VI) See instructions. All other Type III non-functionally integrated supporting organizations must complete Sections A through E		
Section A - Adjusted Net Income			(A) Prior Year	(B) Current Year (optional)
1	Net short-term capital gain	1		
2	Recoveries of prior-year distributions	2		
3	Other gross income (see instructions)	3		
4	Add lines 1 through 3	4		
5	Depreciation and depletion	5		
6	Portion of operating expenses paid or incurred for production or collection of gross income or for management, conservation, or maintenance of property held for production of income (see instructions)	6		
7	Other expenses (see instructions)	7		
8	Adjusted Net Income (subtract lines 5, 6 and 7 from line 4)	8		
Section B - Minimum Asset Amount			(A) Prior Year	(B) Current Year (optional)
1	Aggregate fair market value of all non-exempt-use assets (see instructions for short tax year or assets held for part of year)	1		
a	Average monthly value of securities	1a		
b	Average monthly cash balances	1b		
c	Fair market value of other non-exempt-use assets	1c		
d	Total (add lines 1a, 1b, and 1c)	1d		
e	Discount claimed for blockage or other factors (explain in detail in Part VI)			
2	Acquisition indebtedness applicable to non-exempt use assets	2		
3	Subtract line 2 from line 1d	3		
4	Cash deemed held for exempt use. Enter 1-1/2% of line 3 (for greater amount, see instructions)	4		
5	Net value of non-exempt-use assets (subtract line 4 from line 3)	5		
6	Multiply line 5 by .035	6		
7	Recoveries of prior-year distributions	7		
8	Minimum Asset Amount (add line 7 to line 6)	8		
Section C - Distributable Amount				Current Year
1	Adjusted net income for prior year (from Section A, line 8, Column A)	1		
2	Enter 85% of line 1	2		
3	Minimum asset amount for prior year (from Section B, line 8, Column A)	3		
4	Enter greater of line 2 or line 3	4		
5	Income tax imposed in prior year	5		
6	Distributable Amount. Subtract line 5 from line 4, unless subject to emergency temporary reduction (see instructions)	6		
7	<input type="checkbox"/>	Check here if the current year is the organization's first as a non-functionally-integrated Type III supporting organization (see instructions)		

Section D - Distributions			Current Year
1	Amounts paid to supported organizations to accomplish exempt purposes		
2	Amounts paid to perform activity that directly furthers exempt purposes of supported organizations, in excess of income from activity		
3	Administrative expenses paid to accomplish exempt purposes of supported organizations		
4	Amounts paid to acquire exempt-use assets		
5	Qualified set-aside amounts (prior IRS approval required)		
6	Other distributions (describe in Part VI) See instructions		
7	Total annual distributions. Add lines 1 through 6		
8	Distributions to attentive supported organizations to which the organization is responsive (provide details in Part VI) See instructions		
9	Distributable amount for 2019 from Section C, line 6		
10	Line 8 amount divided by Line 9 amount		

Section E - Distribution Allocations (see instructions)	(i) Excess Distributions	(ii) Underdistributions Pre-2019	(iii) Distributable Amount for 2019
1 Distributable amount for 2019 from Section C, line 6			
2 Underdistributions, if any, for years prior to 2019 (reasonable cause required-- explain in Part VI) See instructions			
3 Excess distributions carryover, if any, to 2019			
a From 2014.			
b From 2015.			
c From 2016.			
d From 2017.			
e From 2018.			
f Total of lines 3a through e			
g Applied to underdistributions of prior years			
h Applied to 2019 distributable amount			
i Carryover from 2014 not applied (see instructions)			
j Remainder Subtract lines 3g, 3h, and 3i from 3f			
4 Distributions for 2019 from Section D, line 7 \$			
a Applied to underdistributions of prior years			
b Applied to 2019 distributable amount			
c Remainder Subtract lines 4a and 4b from 4			
5 Remaining underdistributions for years prior to 2019, if any Subtract lines 3g and 4a from line 2 If the amount is greater than zero, explain in Part VI See instructions			
6 Remaining underdistributions for 2019 Subtract lines 3h and 4b from line 1 If the amount is greater than zero, explain in Part VI See instructions			
7 Excess distributions carryover to 2020. Add lines 3j and 4c			
8 Breakdown of line 7			
a Excess from 2015.			
b Excess from 2016.			
c Excess from 2017.			
d Excess from 2018.			
e Excess from 2019.			

Additional Data

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Software ID:

Software Version:

EIN: 26-3670783

Name: COALITION FOR GOOD GOVERNANCE

Schedule A (Form 990 or 990-EZ) 2019

Page **8**

Part VI **Supplemental Information.** Provide the explanations required by Part II, line 10, Part II, line 17a or 17b, Part III, line 12, Part IV, Section A, lines 1, 2, 3b, 3c, 4b, 4c, 5a, 6, 9a, 9b, 9c, 11a, 11b, and 11c, Part IV, Section B, lines 1 and 2, Part IV, Section C, line 1, Part IV, Section D, lines 2 and 3, Part IV, Section E, lines 1c, 2a, 2b, 3a and 3b, Part V, line 1, Part V, Section B, line 1e, Part V Section D, lines 5, 6, and 8, and Part V, Section E, lines 2, 5, and 6. Also complete this part for any additional information. (See instructions)

Facts And Circumstances Test

SCHEDULE O
(Form 990 or 990-EZ)

Supplemental Information to Form 990 or 990-EZ

Complete to provide information for responses to specific questions on Form 990 or 990-EZ or to provide any additional information.

▶ Attach to Form 990 or 990-EZ.

▶ Go to www.irs.gov/Form990 for the latest information.

2019

Open to Public Inspection

Department of the Treasury

Name of the organization

COALITION FOR GOOD GOVERNANCE

Employer identification number

26-3670783

990 Schedule O, Supplemental Information

Return Reference	Explanation
FORM 990, PART VI, SECTION B, LINE 11B	THE FORM 990 IS REVIEWED BY THE PRESIDENT AND THEN DISTRIBUTED TO THE BOARD FOR REVIEW ALL QUESTIONS ARE ADDRESSED BY THE PRESIDENT AND THEN THE FORM 990 IS FILED WITH THE IRS

Return Reference	Explanation
FORM 990, PART VI, SECTION B, LINE 12C	THE PRESIDENT REGULARLY MONITORS ALL TRANSACTIONS FOR POTENTIAL CONFLICTS AND IF A POTENTIAL CONFLICT WERE TO BE IDENTIFIED, SHE WOULD BRING THE TRANSACTION TO THE BOARD FOR APPROVAL IF THE PRESIDENT IS THE PERSON WITH A CONFLICT, SHE WOULD ABSTAIN FROM VOTING AND THE INDEPENDENT BOARD MEMBERS WOULD DETERMINE IF THE TRANSACTION WAS IN THE BEST INTEREST OF THE COALITION

990 Schedule O, Supplemental Information

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Return Reference	Explanation
FORM 990, PART VI, SECTION C, LINE 19	THE ORGANIZATION MAKES ITS GOVERNING DOCUMENTS, CONFLICT OF INTEREST POLICY AND FINACIAL STATEMENTS AVAILABLE TO THE PUBLIC UPON REQUEST

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**COALITION FOR GOOD GOVERNANCE,
et al.,**

Plaintiffs,

v.

BRAD RAFFENSPERGER, et al., ,

Defendants.

Civil Action No.

1:20-cv- 01677 -TCB

PLAINTIFFS' NOTICE OF FILING DECLARATION

Plaintiffs give notice of the filing of the Supplemental Declaration of Marilyn Marks, attached.

Respectfully submitted this 14th day of May, 2020.

/s/ Bruce P. Brown

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/s/ Robert A. McGuire, III

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Attorneys for Plaintiffs

CERTIFICATE OF COMPLIANCE AND SERVICE

I hereby certify that the foregoing has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Times New Roman and a point size of 14. I further certify that on May 14, 2020, a copy of the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send notification of such filing to all attorneys of record.

/s/ Bruce P. Brown

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Supplemental Declaration of Marilyn Marks

Marilyn Marks declares, under penalty of perjury, pursuant to 28 U.S.C. §1746, that the following is true and correct:

1. My name is Marilyn Marks.
2. I am the Executive Director of Coalition for Good Governance (“Coalition”), a non-profit 501 (c)(3).
3. I have personal knowledge of all facts stated in this declaration.
4. If called to testify, I could and would testify competently thereto.

Organizational Standing

5. The statements regarding Coalition’s members and activities in the Complaint Doc. 1 paragraphs 132-138 are true and correct.
6. The diversion of Coalition’s resources has continued since the complaint was filed. For example, in order to meet the requirements of this litigation, I was forced to reject the request by North Carolina-based Coalition members and voting rights groups to help design and plan drive-through voting options which I had initiated several weeks ago. Other examples follow.
7. I had to decline the request to help with preparing more background educational materials for panel discussions and audiences of the HBO documentary Kill Chain, in which I appear.

8. I had to decline the request by North Carolina Coalition members propose and evaluate alternatives for voter identification methods for mail ballot voting.
9. In the last several weeks, in order to pursue this lawsuit, we have had to postpone our work on investigating the impacts of the violation of secret ballot laws in North Carolina and South Carolina.
10. I had to decline the opportunity to confer with a national study group of experts on signature verification and other eligibility verification in mail balloting.
11. I had to defer the request that Coalition conduct a webinar on the roles and responsibilities of canvass boards and election boards.
12. I had to seek an extension of time for submitting a grant proposal to a donor in order to devote resources to this litigation.
13. I have been receiving at least 3 or 4 invitations per week to participate in panels, educational events or group discussions on election security in the time of pandemic. I am having to decline all of them in order to pursue the claims in this lawsuit.
14. I have had to decline the request for help from our Colorado members to review and provide critique of Colorado's new proposed emergency election rules.

15. Our interns who generally write thank you notes and stay in touch with our donors and members have had to temporarily drop those duties to help organize evidence for this lawsuit.
16. We have had to curtail the volume and timeliness of our responses to voters who are inquiring with questions about their mail ballots and the upcoming election. They have expressed considerable confusion caused by conflicting information communicated by election officials. Many voters and members are seeking information from Coalition but our resources have been diverted to organize information for this lawsuit. We are unable to answer all the inquiries on a timely basis.
17. We had to decline a request to consult with the non-profit start up team working on apps for facilitating electronic mail ballot application submission in New York.

Colorado Mail Ballot Conversion

18. I was an election security activist in Colorado during the time of their managed conversion to an all-mail ballot voting system over the course of approximately 7 years (approximately 2007-2014). I observed the massive changes that are required in voter education, database quality, equipment and system conversions, poll worker training and complex election cybersecurity considerations.

Anticipated Ballot Scanning Errors

19. The video referenced in Ms. Dufort's declaration (Doc. 38 at 4) at link <https://drive.google.com/drive/folders/1bUqMPQUGEq4LNF5tSvafzsKzWnfEDDXi> is a video that I recorded On November 2018 at the Gwinnett County Election Recount. It was edited and annotated by Taran Greenwald and displays the problem that is caused when folds or creases in a ballot are through or too close to the target area causing the scanner to read the shadow or crease marks as a spurious vote. This frequently causes the machine to read and reject this as an overvote.
20. I am familiar with this well-known elementary problem with shadows and smudges from ballot fold lines from observing it several times in Colorado during poll watcher duties. The problem and prevention are well understood by experienced election administrators, ballot builders and ballot printers. Experienced election officials and ballot builders take care to avoid this design flaw.
21. Based on my observations of pictures of 2020 primary ballots that concerned Georgia voters have sent me, with crease lines touching target areas, and my experience observing this issue in Colorado, that the counties should expect to encounter the collection of spurious votes and false positives of undervotes. Based on my observations in previous elections, this could cause

lengthy operating times for teams of workers to resolve each rejected ballot, and delays in results reporting.

County Pollworker Shortage

22.Coalition has been monitoring the poll worker shortage by talking with county election officials and through open records requests with counties, and monitoring county election board meetings.

23.Forsyth County on May 5 reported that approximately 30% of their pollworkers were not planning to work on Election Day. (Exhibit 1)

24.Lowndes County reported on May 12 that only 38 of their needed 185 pollworker positions were filled. (Exhibit 2)

25.Cobb County reported on May 11 that they were at “bare bones” levels, and that workers over 65 were concerned, particularly given the Shelter in Place Order (Exhibit 3)

26.Oconee County on May 5 discussed having to consolidate polling places into just two polling places because of a poll worker shortage and potential loss of polling place access. (Exhibit 4)

County Election Board Meetings

27.Coalition interns and volunteer members monitored all remote (video or telephonic) county election board meetings available in the last three weeks, and recorded the meetings to create transcripts. Transcripts were also created

for various interviews or public meetings where Secretary Kemp and Governor Kemp commented on the pandemic or election matters. All transcripts were prepared under my supervision and represent a correct record of relevant portions of the meeting. (Coalition transcribers did not attempt to fully refine the transcripts for non-relevant portions of the meetings.) A copy of each transcript is maintained in Coalition's files.

28. Transcripts were created under my supervision for the May meetings of the Boards of Elections for Henry County, Clayton County, Newton County, Lowndes County, Cobb County, Camden County, Athens-Clarke County, Effingham County, Oconee County, Richmond County, and Forsyth County.
29. The content of the public meetings was the source for many of Coalition's conclusions on the counties planned reduction in polling places, reduction in voting stations, shortage of pollworkers, lack of guidance from the Secretary of State regarding PPE for poll workers, delays of ballot mailing and processing.
30. Paulding County's planned BMD deployment is an example of significant reduction of the number of voting machines that can be used because of the lack of space and personnel. Using data obtained in an Open Records Request Plaintiff Jeanne Dufort and I calculated the estimated legal minimum of voting stations and the planned reductions. (Exhibit 5) and

found a significant shortfall in machines. For example, precinct 8 plans for 12 BMD compared to 44 required, or 912 voters per machine. Precinct 7 plans 15 machines rather than the 41 required, or 671 voters per machine. Precinct 13 plans 12 machines rather than the 38 required, or 795 voters per machine.

31. Douglas County's planned BMD deployment is another example reviewed by Ms. Dufort and me for the shortfall in polling place equipment deployment, based on Open Records Requests. (Exhibit 6). Some precincts will be in compliance with the 1 to 250 voter minimum while at least 7 precincts such as 1258 will have fewer than 50% of what is required. Precinct 1258 will have 641 voters per machine. Exhibit 11 also reflects the discussions of the Effingham and Forsyth counties inability to meet the 1 voting station to 250 voters statutory requirement.
32. Based on Coalition's review of numerous public records, listening to the board meetings and discussions with county election officials, many of the counties state that they are planning to permit only 10 people at a time in the polling place. This includes pollworkers which appear to average about 6 workers planned per polling location, leaving only 4 positions opened for voters. (Exhibit 11) Transcript excerpts from Effingham and Forsyth Counties' May meetings) The transcripts are accurate and were made under

my supervision from audio recordings of the public meetings, most of which plaintiffs or Coalition analysts observed live as well.)

33. Henry County's Election Board discussed the delay in mail ballot delivery from the mail vendor noting that it appeared that there were 2 to 3 week delays from county processing to voter ballot receipt. (Exhibit 9)

34. Secretary Raffensperger told listeners in a May 7 meeting of the Faith and Freedom Coalition that voters may deliver their completed mail ballots to polling places. I listened to this meeting as it was broadcast and heard his report concerning dropping off ballots, which is accurately transcribed on Exhibit 10.

35. I was pleased to hear him report this as it is part of the relief Plaintiffs seek and have been formally suggesting to Secretary Raffensperger and the State Election Board since December.

36. I frequently review dozens of absentee ballot daily reports from the counties posted daily to the Secretary of State's website to watch the progress of the issuance of absentee ballots. I have observed that the application date and the ballot issuance date are generally significantly inaccurate as the counties are following the directives of the Secretary of State's office as detailed in Chris Harvey's memo of April 13, 2020. (Doc. 20 at 65-68) This results in

the backdating of ballot issuance and also conceals the late processing of the ballot applications. The result is a far more favorable and inaccurate picture of the ballot application and ballot issuance dates. The ballot application received date is the date processed which may be weeks later than the application was received. The ballot issuance date is the date that the processed application information was sent to the vendor, not the date of the ballot issuance to the voter.

37. The delays in mail ballot issuance are not typical in recent prior elections based on my close observations beginning in 2017. In the past the counties have issued the mail ballots directly to the applying elector.

38. A Coalition analyst under my supervision used the database of the mail ballot application and issuance for the November 2018 election and calculated that the average processing time between application and mail ballot issuance by the county was under 2 days.

39. This compares to reported cases of 2 to 3 weeks between county application approval and ballot issuance.

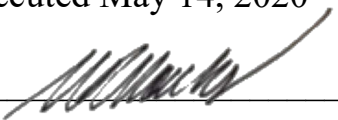
40. This reported delay in vendor processing and mailing is consistent with my examination of numerous pictures of time stamped ballot packet outer envelopes sent to me by members and other Georgia voters.

41. Intentionally left blank

42. Athens-Clarke County Superintendent has recently published an emergency procedure plan which I obtained in a public document request. It is attached as Exhibit 12.
43. State Election Board Rule Rule 183-1-12-.11 (2)(d) was adopted earlier this year requiring that hand marked paper ballots are to be used when polling place emergencies occur including lines of 30 minutes or more. All plaintiffs attended multiple State Election Board meetings and county election board meetings where the intent of the intent of this 30 minute wait default to hand marked paper ballots was discussed. It is documented in various county records as well such as Athens-Clarke Board of Elections Resolution (§ 6 at Exhibit 7 attached)
44. The information collected at the Wisconsin Exhibit to the Brief (Doc. 36 pages 17-86) was obtained by Coalition from the public websites of Wisconsin election officials by analysts working under my supervision. The purpose of the exhibit was to collect the types of Wisconsin Election Commission Guidance and procedures used with respect to public health protection.
45. Intentionally left blank

46. Information regarding the lack of PPE protocols issued by the State was confirmed by Coalition analysts working under my supervision through discussions confirmed by public records requests. One such example consistent with other counties we communicated with is Cherokee County. (Doc. 38 at 158) Another such example is the May Henry County Board meeting discussion where the supervisor reported that the Secretary's office had made it clear that PPE was the responsibility of the counties. (Exhibit 8 attached)
47. Coalition analysts requested information from numerous counties regarding their March 24 ballot cancellation policy or any changes communicated from the Secretary regarding such policy. The response provided by Cherokee County was consistent with other counties which reported no change from the Secretary's instructions to cancel ballots arriving March 24 or thereafter if an application for a June ballot was received from that voter. (Doc. 38 at 158)

Executed May 14, 2020

A handwritten signature in dark ink, appearing to be "M. M. M.", is written over a horizontal line.

Marks Exhibit 1

Poll Worker Shortage

Forsyth 5/05 9:00 am

Mandi Smith (election supervisor) 51:38

That was my understanding and that's what we, you know, advertised. And then we're going to discuss today, the Saturday and the final week. Okay. So, start. So as far as poll workers, we have a link to, for them to follow and they you know, click and let us know if available/ not available. And this went out – I guess it was over a week ago now – it was prior to the governor issuing **the additional shelter in place for those individuals over 65, and with compromised immunity**. You said, we did have some folks change their availability after that order came out. So **300-plus emails went out** to everyone that was originally trained for the Presidential Preference. And as of yesterday morning, approximately **45 said that they were unavailable to work during advanced voting**. The schedule's out there, so on any given day of advanced voting, there's approximately 80 or so that are signed up to be available and approximately 130 signed up to say available to work on Election Day. And about 30% that they were not available to work on Election Day. So, the sign up – and I'm saying approximately because obviously things change – and some folks have double signed up for things. So we have to go out and go in, people get that kind of thing.

...

Barbara Luth 55:47

Mandi, my question is, with the limited number of people that we can have within the polling site, right? They need – you have to cut back on some workers in order to get those numbers in there, which means, but yet **we're still going to have workers outside managing lines** and doing that sort of thing.

Mandi Smith 56:18

They, that will have to be part of the flow of the poll. That was part of what we trained on anyway. There'll be some tweaks to that in the sense of keeping six feet apart. Again, keeping even more people out than what we'd already trained out of the room, you know, you're not allowed to walk into the room at the same time. The concern that we have, though, and with the amount of people who are poll workers, I mean, our poll managers and assistant managers. So the key folks who, you know, in our case, for the most part has worked with for many years, and lots of training, lots of experience. And again, not to go into individual things – but several of those that are not available to work.

Joel Natt 57:15

What about assistant managers? Experience is there – can they fill in if needed?

Mandi Smith 57:26

I know again, that's what I'm saying, well, managers and assistant managers can be who. So we have plenty **of assistant managers who will know never want to be, they never want to move up.** Right. And I understand that and I appreciate that. So staffing with experienced people, not saying that we won't have enough staff, I'm saying with experienced workers is going to possibly be a challenge. Let's see – I'm looking over my notes, too.

Marks Exhibit 2

Lowndes 5/12 (4:30)

Deb Cox (election supervisor) 11:11

Next Issue. Poll workers for the June 9 election. We need 185, we're down to 38. If it becomes necessary to combine precincts for this election, for the June 9 election which has combined the March and the May into. I propose to eliminate or combine some of the precincts and have them voted here as well. We would have open One and close Two, which is Trinity. We would open Northside. We would open Naylor because of the distance out there. Open Rainwater because of the size in the expandability. Open Six: Mildred open Seven: Papermill because the extreme south. Close Dasher because it's very small and we could reroute those between the office, and South Lowndes. Open South Lowndes of course because that's extreme sound as well. VSU is not going to be open, there's no question about that. And close Jaycee Shack and reroute those in here. For the June 9 That's where we stand at the moment, if we get enough poll workers we can have more open, but the elections office is already programmed into the database as a backup on election day, in case this occurs, all counties have got that from the state. We'll standby to see what occurs. We have enough for advanced voting. Jessica's been on the phone literally all day she probably has cauliflower ear. But the problem is poll workers and we have a combined problem the COVID and the extra \$600 on top of unemployment is not conducive to offering somebody you know basically \$7.25 an hour to work. So that's where we're at, at the moment.

Chris 18:39

Hey Deb, it's Chris. Hello, could you go over the numbers of poll workers you currently have in- ones that you need for the actual election.

Deb Cox 18:52

We have 38, and we need 185 all totaled.

Chris 18:58

Yikes! Little bit short there.

Deb Cox 19:02

I would say so.

Marks Exhibit 3

Cobb 5/11 4:00 pm

Janine Eveler (election supervisor) 48:03

Okay, I'm in support, the poll workers, we don't have concrete numbers as of this date. **The area supervisors are in the process of going back and contacting all poll workers to see if they are still going to work, the election.** Prior to the pandemic we were able to have on the average of 10 to 11 workers per poll basically, but that number. At last, has **dropped substantially** that was still going to be available. And of course, our largest challenge would be those **poll managers or assistant managers that would not that would no longer be able to work.** After the initial evaluation and many of the workers have said that they need to **wait closer to the election, before they can make a commit.** So, now we are we are out basically as far as we can and we need to know if they're going to commit or not. Some of the workers, of course, those that **are 65 and older are kind of concerned because the, the order is to be lifted I think like after June 12, if they are 65 years and older,** and that includes a large number of our population. Some have been, of course reassured that you know because of our process, planning to do with providing masks and gloves and hand sanitizer. You know, some are gonna stick with us. If they can. So, but we're feeling like we're close to bare bones at a lot of places, especially with managers and assistant. That's all I have.

Oconee County**5/5 5:30 pm****Fran Leathers (election supervisor) 30:09**

Right. So it'll be that- I'm assuming that's what they'll tell us that we have to do. All right. And early voting plan, we were sort of discussing this a little bit, but early voting begins May 18, which is right around the corner, and we're going to be ready for everybody who ever wants to come vote early with us. We have had plexiglass guards installed, they're temporary, above in our office where you would normally come in and you go into get you know, to show your ID and sign your form. Right there. We've had plexiglass installed there and there's about this about four or five inches below there where people can, you know, slide their ID or slide their papers and sign everything there. So that is good as far as the workers go, and as far as the voters. Right now as it stands, because our office is not as large but we can accommodate, probably four people in the lobby at a time, and try to keep the six foot social distancing. And at that point, once someone has stepped to the counter and they get their card together, they will go on into the voting room. And we will have to determine the six foot distancing in that room as well. A little closer to the time we're gonna early vote- we'll have to go in, plus to see how- what the county stance is, how everything is progressing as far as the distancing of what we're required to do. But we're prepared to do whatever we need to do to keep everybody safe. So it might just take a little longer, but we'll get it, get it all handled. We will have the same, probably most likely, I've talk to everybody that helped us in early voting last time at the PPP everybody's help- willing to help us. We may not need as many workers because we may not have as many people coming in and have as many voting equipment stations or booths setupbut will just have to play that by ear a little closer to the time. And Kirk and I talked about this a little earlier this week, was the Election Day contingency plan. And we've discussed this because Kirk asked me if what happens if something with our approach with the poll workers and our poll workers – say we lose half of them or something happened that they don't want to work because it maybe the situation worse or something like that. So how, what will we do? So Jennifer and I actually spoke about this, talked in great detail about how we would handle something of that nature. Or, say, if our polling sites did not want to open up, or let us – you know – use their polling sites. So what we discussed was having our two largest polling sites, which would be the Civics Center, and I'm saying largest as in the area, which would be Civic Center and Marcelin Hall would be the largest ones, and we would be able to hopefully go in and set up actual smaller precincts within those areas. So we would take You know, six here and six there and maybe put those in different areas in the room where people could come in and vote in those two different locations. And we of course, we would have to get the word out for everybody, you know, signs and that kind of thing as well. And hopefully, if that did happen, we would be able to notify people a little bit more in advance, you know if we needed to do that. But that's the plan that we have in place right now, because those are the only really two large places that we had that would accommodate everybody.

Equipment Plans (subject to change)

Precinct	BMD's	Scanners	Poll Pads	voters	req BMDs	
#1 BHP	10	1	2	5854	24	
#2 CRL	10	1	2	3450	14	
#3 SHEL	12	1	2	4683	19	
#4 RES	12	1	2	7689	31	
#5 PSC	12	1	2	5449	22	
#6 LBC	12	1	2	4174	17	
#7 WGC	15	2	4	10062	41	
#8 WRDG	12	2	4	10994	44	
#9 TEP	10	1	2	4493	18	
#10 PSBC	12	1	2	4568	19	
#11 DWIC	12	1	2	5890	28	
#12 TFP	10	1	2	2643	11	
#13 NES	12	1	4	9551	38	
#14 WOP	12	1	2	5494	22	
#15 MRP	10	1	2	5441	22	
#16 BBC	10	1	2	2419	10	
#17 PCA	12	1	2	3855	16	
#18 PMBC	12	1	2	2610	11	
#19 DMS	12	2	4	7715	31	
AIP						
WGC	20	2	4			

NUMBER OF MACHINES PER PRECINCT

Exhibit 6

June 9, 2020 General/Presidential Preference Primary

PRECINCT	Precinct #	Scanners #	VOTERS		BMD REQ		POLL PADS	ATT'S
			↓	BMD'S	↓	UPS'S		
Arbor Station Elementary School	733	<u>1</u>	2845	<u>10</u>	12	5	<u>2</u>	<u>1</u>
Atlanta West Pentecostal Church	1270	<u>1</u>	3854	<u>10</u>	16	5	<u>2</u>	<u>1</u>
Beulah Baptist Church	731	<u>1</u>	3325	<u>10</u>	14	5	<u>2</u>	<u>1</u>
Boundary Waters Aquatic Center	785	<u>1</u>	4000	<u>10</u>	* 16	5	<u>2</u>	<u>1</u>
Bright Star Methodist Church	734	<u>1</u>	2569	<u>10</u>	11	5	<u>2</u>	<u>1</u>
Chapel Hill Middle School	736N	<u>1</u>	3844	<u>10</u>	16	5	<u>2</u>	<u>1</u>
Chestnut Log Middle School	737	<u>1</u>	3825	<u>10</u>	16	5	<u>2</u>	<u>1</u>
Church at Chapel Hill	736S	<u>1</u>	6092	<u>10</u>	25	5	<u>2</u>	<u>1</u>
Dog River Library	1260	<u>1</u>	5684	<u>10</u>	23	5	<u>2</u>	<u>1</u>
Deer Lick Park	1276	<u>1</u>	2878	<u>10</u>	* 12	5	<u>2</u>	<u>1</u>
Dorsett Shoals Middle School	735	<u>1</u>	3729	<u>10</u>	15	5	<u>2</u>	<u>1</u>
Ephesus Baptist Church	1271	<u>1</u>	3792	<u>10</u>	16	5	<u>2</u>	<u>1</u>
Factory Shoals Middle School	784	<u>1</u>	4078	<u>10</u>	17	5	<u>2</u>	<u>1</u>
First Baptist Church - Douglasville	740	<u>1</u>	2392	<u>10</u>	10	5	<u>2</u>	<u>1</u>
First Baptist Church - Lithia Springs	1274	<u>1</u>	1830	<u>7</u>	8	4	<u>2</u>	<u>1</u>
Golden Methodist	729	<u>1</u>	5292	<u>10</u>	* 22	5	<u>2</u>	<u>1</u>
Lithia Springs H.S.	1275	<u>1</u>	5650	<u>10</u>	* 23	5	<u>2</u>	<u>1</u>
Lutheran Church	739	<u>1</u>	3939	<u>10</u>	16	5	<u>2</u>	<u>1</u>
Mirror Lake Elementary School	1258	<u>1</u>	6409	<u>10</u>	26	5	<u>2</u>	<u>1</u>
Old Courthouse	730	<u>1</u>	5408	<u>10</u>	* 22	5	<u>2</u>	<u>1</u>
Pray's Mill Baptist Church	1272	<u>1</u>	5233	<u>10</u>	21	5	<u>2</u>	<u>1</u>
St. Julian Episcopal Church	738	<u>1</u>	2158	<u>9</u>	9	5	<u>2</u>	<u>1</u>
Stewart Middle School	732	<u>1</u>	3079	<u>10</u>	13	5	<u>2</u>	<u>1</u>
Turner Middle School	3655 1273	<u>1</u>	2949	<u>10</u>	18	5	<u>2</u>	<u>1</u>
Winston Elementary School	1259	<u>1</u>	1821	<u>6</u>	8	3	<u>2</u>	<u>1</u>
Advance Voting								
New Courthouse		<u>2</u>		<u>10</u>		5	<u>2</u>	<u>1</u>
Old Courthouse		<u>1</u>		<u>10</u>		5	<u>2</u>	<u>1</u>
Woodie Fite Senior Center		<u>1</u>		<u>4</u>	*	2	<u>2</u>	<u>1</u>
Boundary Waters		<u>1</u>		<u>10</u>		5	<u>2</u>	<u>1</u>
Deer Lick Park		<u>1</u>		<u>10</u>		5	<u>2</u>	<u>1</u>
Dog River Library		<u>1</u>		<u>10</u>		5	<u>2</u>	<u>1</u>

Athens-Clarke County
Board of Elections and Registrations

**RESOLUTION TO ESTABLISH THE POLICY OF ATHENS-CLARKE
COUNTY REGARDING PROTECTING BALLOT
SECRECY AND VOTER PRIVACY IN THE USE OF
GEORGIA'S NEW BALLOT MARKING DEVICES IN THE
PRECINCTS OF ATHENS-CLARKE COUNTY**

WHEREAS, ballot secrecy and voter privacy are important principles for Georgia voters founded in the Constitution of the State of Georgia and other state and federal laws; and

WHEREAS, Georgia is transitioning to new ballot marking devices; and

WHEREAS, some voters and elections officials have expressed concerns about ensuring that ballot secrecy and voter privacy are maintained during the use of the new ballot marking devices in the precinct locations in Athens-Clarke County; and

WHEREAS, the Elections Division of the Georgia Secretary of State's Office has provided general guidance to all the county elections personnel in the state of Georgia; and

WHEREAS, the Athens-Clarke County Board of Elections and Registrations ("Board") is charged with, among other important tasks, seeking to ensure that ballot secrecy and voter privacy is maintained during the elections to be held in Athens-Clarke County; and

WHEREAS, the Board has received direction from legal counsel as to actions that can ensure ballot secrecy and voter privacy are maintained in the use of the ballot marking devices; and

WHEREAS, that direction is consistent with the law, guidance from the Secretary of State's Office and direction provided by the County Attorney; and

WHEREAS, in a Final Decision issued on March 31, 2020, in the matter of Administrative HAVA [Help America Vote Act] Complaint filed by the Coalition for Good Governance, the Secretary of State's Office stated:

[P]olling places layouts developed by local election officials must be done in a manner that ensures voter privacy, including obscuring the sightlines of observers, poll watchers, and the public such that they cannot view a BMD [ballot marking device] screen. The Secretary of State has provided a privacy shield to go with every ballot marking device, but the counties are not prohibited from finding privacy solutions that best fit their unique polling place needs. County election officials must provide a private voting experience, and privacy must be considered in all aspects of election administrative planning including polling place layouts, site selection, poll worker staffing levels, and the appropriate number and size of precincts.

NOW THEREFORE BE IT RESOLVED, that the Athens-Clarke County Director of Elections and Voter Registration, the full-time staff and other employees and volunteers should to the maximum extent practicable implement the following policy regarding precinct layout:

1. Under O.C.G.A. § 21-2-367, the number of “voting booths or enclosures” required in each precinct on election day is to be computed as follows:

- Divide the number of active voters in that precinct as of the close of the registration period (usually 30 days before election day) by 250
- Round the result up to the nearest whole number

So, for example, a precinct with 251 active voters would require 2 voting booths.

2. The required number of “voting booths or enclosures” in a precinct can be satisfied by a combination of ballot-marking devices (BMDs) and voting booths or enclosures suitable for voting by paper ballot.

So, for example, a precinct that requires 10 “voting booths or enclosures” could have 4 BMDs and 6 places suitable for marking paper ballots.

3. A precinct should have no more BMDs than can be arranged in a manner that is consistent with the Secretary of State’s guidance on ensuring voter privacy (a copy of which is attached). If that number is less than the number of “voting booths or enclosures” required by law in that precinct, the remaining number should consist of paper-ballot voting booths.

4. In order to remain consistent with the Secretary of State’s guidance on ensuring voter privacy, BMDs should be arranged in accordance with the following principles.

a. Voters who are checking in, waiting in line, or using a magnifying station should not be able to see the screen of any BMD.

b. Poll workers should not be able to see the screen of any BMD except when necessary to assist a voter.

c. BMD screens should face the wall and should preferably be positioned back to back rather than side by side.

d. If BMDs are positioned side by side, there should be an extended privacy screen between them, as illustrated by the attached photo.

e. BMDs should be arranged so that no voter has to walk behind any other voter in order to get to a machine. Aisles of BMDs (see attached photo) are therefore strongly discouraged.

f. There should be no more than two BMDs on any banquet table.

5. A paper-ballot voting booth could be a table or a part of a table if appropriate screening is used to ensure voter privacy. See the attached photo. A provisional voting station counts as a “voting booth or enclosure” as long as it meets this guideline.

6. Paper ballots—and paper-ballot voting booths—should only be used in cases of emergency. Under the Georgia Administrative Code, examples of emergencies justifying the use of paper ballots include “power outages, malfunctions causing a sufficient number of electronic ballot markers to be unavailable for use, *or waiting times longer than 30 minutes.*” Ga. R. & R. 183-1-12-.11(2)(d).

All poll managers should be trained on the use of paper ballots in the case of an emergency and should be instructed to monitor the length of the lines. If, in the poll manager’s judgment, waiting times are longer than 30 minutes, paper ballots should be used (in addition to BMDs) until the emergency is resolved.

7. No number of voting booths is required during the early voting period. Accordingly, guidelines 1 and 2, above, do not apply. However, early voting locations should be arranged in a manner that is consistent with guidelines 3 and 4.

AND BE IT FURTHER RESOLVED, that the foregoing shall become and is the policy of the Athens-Clarke County Board of Elections and Registrations.

SO RESOLVED this 1st day of April, 2020.

Jesse Evans, Chairperson

Charles Knapper, Vice Chairperson

Willa J. Fambrough, Secretary

Patricia A. Till, Member

Rocky Raffle, Member

Henry County Board of Elections
May, 2020 meeting

Dan Richardson 39:34

Okay, thank you, thank you, Board Member Brown. Okay. Seeing no other comments on that topic, we move down to the next one, which is an update on the personal protection equipment. Madam Director.

Ameika Pitts 39:50

Yes, sir. Um. In the beginning we had a set number of what we were wanting and needing and it was getting detrimental not getting those things. And so after networking with a county manager as well as fleet maintenance, we gave them a list, and we have been communicating much more. And we found out that although we were not receiving what we were needing, I guess, and we felt like should have been timely, is that there was a lot of orders going out, and they were, there was a long time a period of things going back and stop. And I can report today that as things are coming in, we are getting our numbers. Not all of them close, but we were getting our numbers, and I was, and that was something that I was hoping that we wouldn't have a problem with is making sure that we have the PPE equipment for the safety of the poll workers and end voters, you know, the community, as well. But I'm very happy to report that then, with almost every other day we're getting things in now before it was just a little box or two. But, yeah, those things have changed and I'm happy to report that and has increased.

Dan Richardson 41:0[CGG]And so, board members I want to just point out two things. One is on the state call today. They did make an announcement that counties that were in need, is that they can make a request and **the state would distribute some protection equipment, they did not know the exact numbers**, because they need to receive the request to determine how much they were able to fulfill. They did make a point and wanted to be very clear that **this responsibility resides at the county level**. The state is just trying to facilitate the process to make sure that everyone have what they need. In addition to that, I have been conversing with Madam Director and I sent an email this morning to a local supplier. That's actually **Global Watchdog, Incorporated**. They will be able to provide hand-held

thermometers, gloves, lint-free alcohol wipes, hand sanitizers, and face shields and masks to include the N95 masks, if we feel that there's a need.

Henry County Board of Elections Meeting May 2020 meeting

Ameika Pitts 22:24

That is potentially part of the issue – it's two things that we really need to push. Drop off was the spike up this week but as well as I had applications come into my inbox. And it took a minute with a few trial and errors with it for us to work out how to get them from my inbox, so that the staff can have access to them. And as of this morning when I talk with them. We have taken care of those. Those have been broken down and being processed as we speak, and also the state did inform us that the vendor that is sending out the ballots –I was, if I remember correctly – they're anywhere from two to three weeks being behind. So that is also some of the reasoning why some of them have not been reached. Okay. So, in terms of us, when we say that we brought in additional people do we need to bring in more? Or are we adequate? I feel that we're adequate at a time because I feel like we are ... we're at the brim of what we need to have and as far as space. Um, and so that's why I said I'm hoping that adding more people to our process of what we're doing to get them done. I'm hoping to this will bump up the percentage, and then if not then I do have other plans that I want to introduce to the staff to get things rolling a little bit faster.

Dan Richardson 24:01

So, okay, okay. I think, I think we definitely need to do whatever we need to do to get that number up. Initially, because I, I wrote it down. And I thought that I heard 6.63, and, I was hoping that I heard 66%, and to just be very honest with you, I would have thought that the 66% would have been a lot. So I'm really concerned about where we are. And I think that we need to make sure that we're pulling out all the stops to get where we need to be. But my question along those lines are, what should be our official communication to the citizens who are contacting myself and other board members and trying to contact the office, regarding the status of their ballots?

Ameika Pitts 24:58

Well one of the things and one of the questions that have been asked a lot is one of the ones that you say that they have said at some time back and they haven't heard

anything, um, that reasoning is like I said from getting information from our emails as well as the massive amount that comes in the breakdown of getting everything prepared to process. It is just – it is a process. And then second question that has been really big is, if a spouse receives their ballot, and the other spouse has not, and they sent it at the same time. And that, not to look at, you know, lie blame with anyone because first thing we would do is to check and make sure that they've been entered. And if they've been entered, we just explain to them at that point that it goes with state vendor pulling those and sending those out and we do let them know that you know staying informed us that they're behind, and then also the mail system. There's nothing that we do with Postal Service making sure that they get things. And as they say, they send out the same time they feel like they should get it back at the same time and we just advise them to give it a couple days because if we cancel them, and reissue – which is some of the things that some people have mentioned – it just puts them back at the end. And so we try to ask them to the best of their patience ability to give it a couple of days, but sometimes soon as they do that, it shows up within a day or two. And now, they can't use that because that one has been cancelled and re-issued. So those are the two biggest issues that we're having as far as that and questions and ...

Dan Richardson 26:41

Okay, so the thing is, I was I was on the state call today. And I know previously they had talked about the non-receipt, or not non-receipt – sorry, the ballot tracking that's going to be available, and they had hopes that reporting for that would be up as early as this afternoon. Will that help us? In the case where the ballots have been requested? And it perhaps is in the mail process, and it's my understanding with this ballot tracker, they will be able to determine if that ballot is out on a mail delivery for today, or whether it's sitting in a post office. Is that, is that correct?

Ameika Pitts 27:24

[CGG] That is my understanding and I am waiting to get official communication from them, explaining this. That was something that was not aware they were doing, of course, and that would be helpful. We have been advising people to check in MVP, and keep an eye on that because not only does it tell you where your ballot is, if your ballot has been mailed out, or has your application to received? It also lets you know once you complete your ballot in the middle of the

end that the office has proceeded so that that's one of the things that I have been pushing, but when they explained that this morning. I am excited about finding out exactly how all that's gonna take place. But that is my understanding. It's supposed to be a little bit more detailed. It will be giving us a true tracking.

Exhibit 10

Marks Declaration
Exhibit 10

May 7, 2020 Faith and Freedom Coalition of Georgia

Rep. Cantrell:

But if you apply for you got your absentee ballot, but then you decide you want to vote in person. Did y'all talk about?

Sec. Raffensperger:

No, we didn't, but that's a good question. I've been telling people to bring the ballot with them. They have to otherwise it's going to be counted. Otherwise, it gets counted as it's been cast. So please, if you decided to want to change your mind, you have to bring it with you. And then you can decide to drop it in there or it's up to you how you want to handle that But without bringing it there. That's the situation that we have right now. So that's good advice. Thank you, Representative Cantrell.

Forsyth Board May Meeting:

Mandi Smith 58:26

Well, it is what it is, to some extent, I mean, but in terms of limiting the number of people, I mean, that's going to play in. So if we say we're only going to have four or five poll workers, then we can go back and look at the list and see if we can get maybe assistant managers who are willing to step up and be a manager, but at a different polling place. You know, we might have some folks to, to leave their normal polling place where they're assigned because if it's limited we can have enough we can still sprinkle in our more experienced poll workers with our less experienced poll workers. We have had folks reach out. I know the state has had a big push and a big campaign for folks who are interested in being a poll worker, particularly those folks who do work within those categories that they're still saying are in high risk. We're interested. We've not pursued that too much, because we're waiting to see some direction from you guys. And at the end of the day to get, if that's brand new people, at least – Yeah, we have a process. We sort of vet people when we have our meet and greets. We have training. You know, these will be brand new people with very limited training. So we're going to have to still pair them with some sort of experience poll worker. We know gobs, you can't just be thrown out the to the curb. There's a lot more to it, to being a poll worker. It's a very big responsibility. And I know they all take it very seriously. And they're there to do a great job. So circling back around, and it all kind of plays in together. So depending upon how many workers in general we want to get these polling place, then that also lends itself to **how much equipment do you put out?** We know and we've had many discussions about the challenges we were facing with meeting the rule when it comes to you know, **a piece of equipment for every 250 voters. There is no way you can do that and maintaining social distance** and, and and make sure that you know, there's there's room enough to keep people apart from each other. So the issue becomes, "how many to put in any given room?" It's like, okay, so say you have five machines. Well, then you have the potential of having five voters. And then and you can't have more than 10 people in the room, as long as it's kept apart from each other. We are familiar with our polling places. And we know we have very few polling places where you're going to be able to have much more than 10 people in the room and be comfortably kept apart from each other. Right. So I'm sorry, what are your thoughts on?

Barbara Luth 61:42

Well, I think for that last week, we're going to have to open more sites if we can, but they're going to be limited. **We're not going to be able to put the amount of equipment out there that we normally put** – which, in essence is sort of good because you don't have to test it. You know, get what I'm saying, if we can only put I mean, if we can't put 20 machines someplace because we can't social distance, then we're gonna have to figure out how many we can put in. And still, especially for advanced voting. **I know we're gonna have to do for Election Day, too.** But for advanced voting, we're going to have to do that too. So we're gonna stay the first two weeks in our office, which is going to be a challenge anyway, because of using the office for other things.

Matthew Blender 62:39

Mandi?

Mandi Smith 62:41

Yes.

Matthew Blender 62:45

In general terms, because of the social distancing that's required, in any polling place, **we're going to have to cut back on the amount of equipment by about 50%.** Would that be a fair statement?

Mandi Smith 63:00

I think 50% honestly. Yes.

Matthew Blender 63:06

So among the advanced voting locations other than the office It seems to me that that Sharon and Midway are real – gonna be real choke points in that regard. Are we going, are we going to get the bigger room at the Hampton Library? That's ...

Mandi Smith 63:31

Right. We were on track for the big room and for Hampton Library all year. So that's not an issue. Yeah. And I will I will put out there for your consideration. And I mean, we've given thought, and of course, nothing is set in stone, but in terms of how to use our office and for the first place that will open ... Obviously, we've got our room, I'm gonna empty, shifting people. either, because right now, that's where we have people working on missing applications. **But some things to think about are the fact that in terms of maintaining the line, we know they can go out our door, down the side of the building on the sidewalk, we can have a poll worker keeping it so that they don't go across the road. They can then go up the sidewalk, back toward the tax commissioner's office. And frankly, they could go back down on the sidewalk all the way to town if they needed to. Comfortably park down the sidewalk.** It's not funny. Like the lines when you go to the grocery store.

Joel Natt 64:45

more tape across the sidewalk and six feet markers so that people know how to step up to here. Exactly.

Effingham County Board Meeting

Olivia Morgan 06:19

Yes, yeah. So it makes it more complex. And then we're also limited to, you know, based on the 10 people per room guideline, that makes it more difficult. We've posted

notices about each of the rooms where voting will be taking place at, and they will be monitored by staff. We set up a PPE table in the waiting area leading into the voter check-in room, the signage, encouraging voters to use them. Hopefully they'll use them before they even start, you know, we'll have gloves and sanitizer. We're limiting it to get bought food and handling gloves, one per voter. We are limited to four voters in the check-in room at one time since we have to have five to six staff members in there to process everybody. Also in the voting room. with maintaining the six foot I could only fit 7 BMDs back there, For the last election the march election we had 12 so that cuts back on how many people can be voting at one time. Also including an area where 4 additional voters can wait in line at the scanner and still maintain the six feet. We will still have the ballot review station setup since it will be a very long ballot and it prints on both sides of the paper. Voters should take advantage of that and definitely use the review station. Hopefully they will. Based on the limitations I expect that early voting process will be quite a bit slower than usual and lines will be longer than usual. And Laura correct me if I'm incorrect. Review of absentee ballots. Over 7000 absentee ballot applications have been processed and we are still receiving daily by mail and email and people dropping them off. Over 1000 completed ballots have been received. We're still using our mailbox as an after hour Dropbox. We have a ballot box in front of Sharon's desks for voters to walk in and drop their ballots in. Also, since the states contracted with a third party to mail ballots, we have become aware that instead of including an inner white envelope inside of the ballot assembly they did sent a secrecy sleeve, which is essentially a piece of paper. And then instructions still say an envelope for that. Confused a lot of our voters. I did post information about it on our website. It's on the initial homepage on our page and then it also is included on our phone menu message now to instruct voters how to use this. And for any of you that didn't get a ballot, or so you'll know, it's just you fold your ballot, put it inside. Fold the sleeve and then you don't have to seal it or anything and we prefer that they don't because that's going to take the absentee crew a lot longer to get them back open on election night. And then just put it inside of the oath envelope like they normally would. Also due to the applications being sent out by the state, there were over 2000 voters on the rollover list. So that means that we will have to mail over 2000 ballots out as soon as possible for the runoff election. We do not believe at this time the state is going to use the vendor for the runoff so that means we have to mail it all. Also we received a lot of calls from voters that said they received their ballot but they have decided they want to vote in person instead. We are asking that voters bring their ballot to the office to have it canceled, or they will need to bring it with them to the polling place on election day to have a canceled. If they never received their ballot, then they will have to complete a cancellation affidavit in order to vote. That kind of helps us out where every single person, you know, if they're bringing back a ballot, and you can determine, "Yes, this is you and this is your ballot that you're trying to cancel," then they can skip the step of calling us with every single voter for us to check. So that'll free up us on election day. But we have specific procedures for them to follow for that. We know. And this could also you know, we all probably have a lot of people doing that for early voting too. But that's gonna slow down things because there's paperwork involved. We've got to check things to cancel those ballots. For Election Day, I purchased face masks, latex gloves and hand wipes for the Poll Pad table. We will also have disinfectants to sterilize the machine. For anybody

who doesn't, you know want to use the sanitizer or the gloves we will still be sanitizing the machine. They're also faced with some difficulty with determining how to follow the law and also the social distancing guidelines in regards to the equipment. By law we are required to send out one BMD per 250 registered voters per precinct. To see Bible Lutheran which is our largest polling location in regards to voter registration number. They would require 16 BMDs. It is just not possible to set up 16 BMDs. The scanner and security barrier, and maintain social distancing guidelines and also have not more than 10 people in enclosed area in the public area. Trying to get guidance from the state. The counties haven't received any. They're pretty much saying, "Contact your county attorney. Contact your health department," so, haven't gotten anything. So in an effort to comply with the law and guidelines, we will be instructing each polling location to post a "space enclosed" notice on every other BMD that cannot be separated by six foot either by room constraints, electrical constraints or exceeding the 10 people within the enclosed space. But the ADA accessible unit will always be open. If a location can accommodate the guidelines and have all the, all the BMDs available then they will. Sharron and Brandon the new tech and I will be going to every polling location on delivery day to double check after the delivery crew and mark official distance for the polls and try to set up the room to accommodate social distancing guidelines. Election Day We will have additional phone support here at the office. We will have five additional poll workers assisting with the phones and the voters walking into needing to know where they go vote at office staff will be handling the more difficult calls and Brandon will be assisting with any equipment calls from the polling location for election night, Laura will definitely need a larger crew and we will begin the absentee process early. We haven't determined a specific time yet we'll wait till we get a little closer and see exactly how many ballots we have. Of course, no results will be tabulated until after seven but the process of opening only envelopes and counting them into batches to be scanned will be very time consuming. The voting room will be transformed into the tabulation and public viewing room. We will have the projector setup to display results as they're uploaded and a seating area for candidates to public.



APPENDIX – CONTINGENCY ELECTION PLANNING COVID-19

Due to the current COVID-19 pandemic, the Athens-Clarke County Board of Elections proposes the following contingency plan for the June

9, 2020 Primary Election. This document should serve as an outline for that plan to include the following:

1. Athens-Clarke County List of Polling Locations
2. Current Condition – How did we get here?
3. Condition requirements under Federal Guidelines.
4. Alternative Polling locations in the event of the pandemic.
5. Election workers shortage/requirement for the plan.
6. Sample of plans and alternatives.
7. Supplies and assistance needed to carry out the plan.
8. Maps, drawings and set-ups to carry out the plan.
9. Absentee Voting process and contingency plan.
10. Sanitation Practices for use under COVID-19 conditions at the polling locations.

The purpose of the Contingency Plan is to set the processes to carry out during Elections during the COVID-19 pandemic or other incidents, which may inhibit the department from serving the public and/or conducting an election.

As we are hopeful that we will be able to proceed with use of all 24 polling locations, we must prepare for the foreseeable.

Draft Revised May 13, 2020

THE UNIFIED GOVERNMENT OF ATHENS-CLARKE COUNTY, GEORGIA
OFFICE OF THE BOARD OF ELECTIONS & VOTER REGISTRATION
P. O. Box 1828 • Athens, Georgia 30603 (706) 613-3150 • Fax (706) 613-3840
www.accgov.com

ATHENS-CLARKE COUNTY POLLING LOCATIONS & ADDRESSES – 2020 GENERAL PRIMARY ELECTION

Precinct Name	POLLING LOCATION	ADDRESS
1A	WINTERVILLE TRAIN DEPOT	125 N Church Street; Winterville 30683
1B	ACC TENNIS CENTER *	4460 Lexington Road; Athens 30605
1C	BARNETT SHOALS ELEMENTARY SCHOOL *	3220 S Barnett Shoals Road; Athens 30605
1D	WHIT DAVIS ELEMENTARY SCHOOL	1450 Whit Davis Road; Athens 30605
2A	JUDIA J HARRIS ELEMENTARY SCHOOL	2300 Danielsville Road; Athens 30601
2B	HOWARD B STROUD ELEMENTARY SCHOOL	715 Fourth Street; Athens 30601
3A	CLARKE CENTRAL HIGH SCHOOL	350 S Milledge Avenue; Athens 30605
3B	ACC THOMAS LAY PARK	297 Hoyt Street; Athens 30601
4A	ATHENS TRANSIT MULTI-MODAL CENTER	775 E Broad Street; Athens 30601
4B	ACC MEMORIAL PARK	293 Gran Ellen Drive; Athens 30606
5A	OGLETHORPE AVENUE ELEMENTARY SCHOOL *	1150 Oglethorpe Avenue; Athens 30606
5B	WHITEHEAD ROAD ELEMENTARY SCHOOL	555 Quailwood Drive; Athens 30606
5C	CHASE STREET ELEMENTARY SCHOOL	757 N Chase Street; Athens 30601
5D	ACC FLEET MANAGEMENT FACILITY	255 Newton Bridge Road; Athens 30607
6A	CLEVELAND ROAD ELEMENTARY SCHOOL	1700 Cleveland Road; Bogart 30622
6B	GA SQUARE MALL UPPER LEVEL, NEAR SEARS (as of 6/9/2020)	3700 Atlanta Highway; Athens 30606
6C	TIMOTHY ROAD ELEMENTARY SCHOOL	1900 Timothy Road; Athens 30606
6D	FIRE STATION #4 OGLETHORPE AVENUE	900 Oglethorpe Avenue; Athens 30606
7A	UNITARIAN UNIVERSALIST FELLOWSHIP *	780 Timothy Road; Athens 30606
7B	ATHENS REGIONAL LIBRARY (as of 11/18)	2025 Baxter Street; Athens 30606
7C	FIRE STATION #3 FIVE POINTS	1198 S Milledge Avenue; Athens 30605
8A	GAINES SCHOOL ELEMENTARY SCHOOL	900 Gaines School Road; Athens 30605
8B	CEDAR SHOALS HIGH SCHOOL	1300 Cedar Shoals Drive; Athens 30605
8C	FIRE STATION #7 BARNETT SHOALS ROAD	2350 Barnett Shoals Road; Athens 30605

(*) New location as of June 9, 2020

CURRENT CONDITION

How Did We Get Here?

On March 14, 2020, the Secretary of State's Office announced postponement of the March 24, 2020 Presidential Preference Primary Election, announcing that it will be held in conjunction with the General Primary & Non-partisan Elections scheduled for May 19, 2020.

Then, on April 9, there was an announcement that the General Primary Election is extended to June 9, 2020.

Since March 19, 2020, the Unified Government of Athens-Clarke County is operating under a shelter in place ordinance and mandated to practice social distancing by limitations of less than ten gathering.

Due to the mandates placed on our jurisdiction and the status of COVID-19, this office has implemented the challenges, strategies, needs and requirements listed in this document.

On pages 5-8, we are providing the criteria that we will follow if the crisis has not improved by May 10, 2020 as it relates to our Advance Voting locations. Advance Voting will begin on Monday, May 18, 2020 at the Board of Elections Office.

REMEMBER, PERSONAL HYGIENE AND SAFETY IS IMPORTANT!

CONDITIONS REQUIRED UNDER GEORGIA STATE GOVERNOR KEMP'S EXECUTIVE ORDER,

MARCH 14, 2020

State of Georgia Executive Order:

Code Section 38-3-51(c)(4) vests the Governor with the powers and duties to promote and secure the safety and protection of the civilian population.

1. No county shall allow more than ten (10) persons to be gathered at a single location if such gathering requires persons to stand or to be seated within six (6) feet of another person. (so ordered)
2. BOE "Critical Infrastructure" shall implement measures which mitigate the exposure and spread of COVID-19 among its work force. (so ordered)
3. Screen workers who exhibit signs of illness such as fever, cough, or shortness of breath. (1, critical infrastructure)
4. Require workers who exhibit signs of illness to not report to work or to seek medical attention. (2, critical infrastructure)
5. Enhance sanitation as appropriate in the workplace. (3, critical infrastructure)
6. Require handwashing or sanitation by workers at appropriate places within the location. (4, critical infrastructure)
7. Provide personal protective equipment as available and appropriate to the function and location of the worker within the location. (5, critical infrastructure)
8. Prohibit the gathering of workers. (6, critical infrastructure)
9. Provide disinfectant and sanitation products to clean the workspace and equipment. (13, critical infrastructure) Prohibiting handshaking and other unnecessary person to person contact. (14, critical infrastructure)
10. Placing notices to encourage hygiene at the entrance of the building. (15, critical infrastructure)

The BOE's priority is protecting the staff and public from disease spread while providing appropriate opportunities to carry out a citizens' civic right to cast an in-person ballot during the Advance Voting period and at the polling locations on Election Day.

ADVANCE VOTING (Three weeks prior Election Day)

Dates: Monday, May 18 – Friday, June 5, 2020

Location: Board of Elections Office

155 E Washington Street; Athens, GA 30601

Challenge(s)	Strategy	Supplies Needed	Assistance Required
<ul style="list-style-type: none"> Minimal staff Maintain less than 10 people in the space at a time. Voters will remain in vehicles until instructed to enter the building. 	<ul style="list-style-type: none"> Implement a system of car lines/parking (refer to voting route attached) Maintain a minimum of four staff positions outside the voting area (in our cubicle workstation and offices behind locked access doors). One elections clerk fielding phone calls/questions and performing daily work will operate the office. The remaining three are Director Charlotte Sosebee, Elections Assistant Pamela Long, and Administrative Assistant Aletha Perkins; three BOE staff will serve as Poll workers operating the Advanced Voting Location – a manager and two assistant managers needed, by law, to staff a polling location. Two will perform the function of check in. One will operate the tabulator and assist voters when necessary. This leaves space for three voters in the office at a time. One poll worker will operate the door and direct the controlled entrance and exit of voters. ACC Gov. Employees from other departments will provide needed personnel (number undetermined) to manage the car line along Washington Street and through the downtown parade route for as far as cars extend. We will allow occupants of the lead car into the office to vote. The occupants of additional cars will also enter the office at the same time if the total number of voters inside the office is less than the maximum of three (allowing for those who require/bring assistance). Voters who arrive on foot – we will mark 6 feet spacing on the ground with tape to maintain social distancing. The voters will be interspersed/alternated with the car riders lined up to vote. Voters will receive items for proper protection/sanitation upon entering the office to dispose of such items upon exit. Between each round of three voters, (only three units provided for voting) staff will sanitize all equipment by wiping with alcohol wipes or some version thereof. Poll Workers will wear proper PPE at all times. 	<ul style="list-style-type: none"> Gloves Masks Tissue to wrap & transfer DLs to poll worker Hand sanitizer Alcohol wipes Other recommended supplies ACC Gov. or BOE must procure & provide Bio-waste disposal containers/bags and dispose of bags in the proper manner. 	<ul style="list-style-type: none"> Directing traffic and car line Placing directional signs, cones, etc. directing traffic along parade or alternate route Delivery of elections equipment on 5/15, Friday before Advanced Voting begins Pick up of elections equipment after 5:30pm on 6/5.
		<p style="text-align: center;">Equipment Needed</p> <ul style="list-style-type: none"> 3 BMDs – one ATI 2 UPSs 1 ICP tabulator 2 Poll Pads 2-25ft extension cords Provisional Ballot Area & Magnifying Station Voter's Certificates Advanced voting paperwork 	

Location: Miriam Moore Community Center
McKinley Drive; Athens, GA 30605

Challenge(s)	Strategy	Supplies Needed	Assistance Required
<ul style="list-style-type: none"> Minimal staff Maintain less than 10 people in the space at a time. In order to maintain social distancing we will allow three voters in the room at one time. The parking lot is shared with East Athens Health Department. They will need access to parking spaces for their patients. Confirm with the two offices (East Athens Development Corporation and the Health Department) how many parking spaces are available for the use of voters. 	<ul style="list-style-type: none"> Six poll workers will staff this location; one will direct entrance and exit of voters at the outside door; Manager will perform his/her poll management duties; two will operate check in stations; one will roam the room to address questions and provide assistance. This leaves space for four voters. Voters enter the voting space through the interior door and exit the exterior door into the parking lot. ACC Gov. Employees will use numbering system such as laminated numbered 8x11 cards placed on the windshield that voters return as they enter the building (or a worker retrieves from the car to avoid passing contact with voters). This will designate the voting order. Place signs to direct cars to enter the parking lot from the left side of McKinley Drive and exit out to the right. If a line forms there will be a plan to keep the cars from blocking the spaces in front of the Athens' Neighborhood Health Center located nearby on McKinley. We will direct voters in need of an ADA access to park in spaces nearest the building entrance and allowed to go inside at the earliest available time. Hold at least one space open on the side of the building for an ADA voter's arrival, at all times. Voters who arrive on foot – we will mark 6 feet spacing on the ground with tape to maintain social distancing. The voters will be interspersed/alternated with the car riders lined up to vote. Voters will receive items for proper protection/sanitation upon entering the office to dispose of such items upon exit. Between each round of three voters, (only three units provided for voting) staff will sanitize all equipment by wiping with alcohol wipes or some version thereof. Poll workers will wear proper PPE at all times. 	<ul style="list-style-type: none"> Gloves Masks Tissue to wrap & transfer DLs to poll worker Hand sanitizer Alcohol wipes Other recommended supplies ACC Gov. or BOE must procure & provide Bio-waste disposal containers/bags and dispose of bags in the proper manner. 	<ul style="list-style-type: none"> Directing cars to park in the appropriate parking spaces and using the laminated cards to "line up" voters. If needed, directing traffic line from McKinley Drive into the parking lot and directing exiting traffic to turn right onto McKinley Drive for safe exit. Placing signs leading to the beginning point on McKinley Drive and down both roads leading to McKinley. Place signs for NO ENTRANCE and NO EXIT at the proper points on McKinley Drive, properly leading traffic to and away from the parking lot. Delivery of elections equipment on 6/1, Friday before Advanced Voting begins at this location. Pick up of elections equipment after 5:30pm on 6/5.
		<p style="text-align: center;">Equipment Needed</p> <ul style="list-style-type: none"> 3 BMDs – one ATI 2 UPSs 1 ICP tabulator 2 Poll Pads 2-50ft extension cords 1 ADA Height table Provisional Ballot Area & Magnifying Station Voter's Certificates Advanced voting paperwork 	

**Location: ACC Regional Library
Baxter Street; Athens, GA 30606**

Challenge(s)	Strategy	Supplies Needed	Assistance Required
<ul style="list-style-type: none">Minimal staffMaintain less than 10 people in the space at a time.In order to maintain social distancing we will only three voters in the room at one time.	<ul style="list-style-type: none">Consisted of eight workers, one worker who will direct entrance and exit of voters at the outside door will staff this location; one will remain in lobby area to manage social distancing and direct voters into meeting room where voting will is held. This person will be responsible for alerting door attendant of the number of voters to let inside the building at any given time.Staff consists of a Manager, who will perform his/her poll management duties; three who will operate check in stations; one will operate the tabulator; one will roam the room for questions and assistance.Voters enter the voting space through the interior door and exit the exterior door into the parking lot.ACC Gov employees from other departments will provide needed personnel (number undetermined) to manage the car line around the parking lot to the library front entrance.Utilize the large number of parking spaces instead of forming a line. Direct cars into predetermined order of spaces.Use numbering system as alternative to line, such as laminated numbered 8x11 cards placed on the windshield that voters return as they enter the building (or a worker retrieves to avoid passing contact with the voter).Voters requiring ADA entrance ramps or assistance will be directed to drive up to the building entrance and allowed to go inside at the earliest available time.Occupants of the lead car will be allowed into the building to vote. The occupants of additional cars may be allowed inside at the same time if the total number of voters inside the meeting room is less than the maximum of four.Voters who arrive on foot, will be directed by the outside poll worker to line up in designated area. Mark six foot spacing on the ground to maintain social distancing. The voter's will be given interspersed/alternated with and overflow car riders sent up the steps to vote.Voters will receive items for proper protection/sanitation upon entering the office to dispose of such items upon exit.Between each round of three voters (only three units provided for voting), staff will sanitize all equipment by wiping with alcohol wipes or some version thereof. Poll workers will wear proper PPE at all times.	<ul style="list-style-type: none">GlovesMasksTissue to wrap & transfer DLs to poll workerHand sanitizerAlcohol wipesOther recommended suppliesACC Gov. or BOE must procure & provide Bio-waste disposal containers/bags and dispose of bags in the proper manner.	<ul style="list-style-type: none">Directing traffic and car linePlacing signs directing traffic on appropriate path around the Library parking lotDelivery of elections equipment on 6/1, Friday before Advanced Voting begins at this locationPick up of elections equipment after 5:30pm on 6/5.
		<p style="text-align: center;">Equipment Needed</p> <ul style="list-style-type: none">4 BMDs – one ATI2 UPSs1 ICP tabulator3 Poll Pads2-50ft extension cords1 ADA Height tableProvisional Ballot Area & Magnifying StationVoter's CertificatesAdvanced voting paperwork	

**Location: Cooperative Extension Office
Athens, GA 30606**

Challenge(s)	Strategy	Supplies Needed	Assistance Required
<ul style="list-style-type: none"> Minimal staff Maintain less than 10 people in the space at a time. In order to maintain social distancing we will only allow three voters in the room at one time. 	<ul style="list-style-type: none"> Six poll workers will staff this location; one will direct entrance and exit of voters at the outside door; Manager will perform his/her poll management duties; two will operate check in stations; one will roam the room to address questions and provide assistance. This leaves space for four voters. Voters enter the voting space through the interior door and exit the exterior door into the parking lot. ACC Gov. Employees will use numbering system such as laminated numbered 8x11 cards placed on the windshield that voters return as they enter the building (or a worker retrieves from the car to avoid passing contact with voters). This will designate the voting order. Place signs to direct cars to enter the parking lot. If a line forms there will be a plan to keep the cars from blocking the spaces in front of the Cooperative Extension Office. We will direct voters in need of an ADA access to park in spaces nearest the building entrance and allowed to go inside at the earliest available time. Hold at least one space open on the side of the building for an ADA voter's arrival, at all times. Voters who arrive on foot – we will mark 6 feet spacing on the ground with tape to maintain social distancing. The voters will be interspersed/alternated with the car riders lined up to vote. Voters will receive items for proper protection/sanitation upon entering the office to dispose of such items upon exit. Between each round of three voters, (only three units provided for voting) staff will sanitize all equipment by wiping with alcohol wipes or some version thereof. Poll workers will wear proper PPE at all times. 	<ul style="list-style-type: none"> Gloves Masks Tissue to wrap & transfer DLs to poll worker Hand sanitizer Alcohol wipes Other recommended supplies ACC Gov. or BOE must procure & provide Bio-waste disposal containers/bags and dispose of bags in the proper manner. 	<ul style="list-style-type: none"> Directing cars to park in the appropriate parking spaces and using the laminated cards to “line up” voters. If needed, directing traffic line from Cleveland Road and directing exiting traffic for safe exit. Placing signs leading to the beginning point on Cleveland Road leading to Cooperative Extension’s entrance. Place signs for NO ENTRANCE and NO EXIT at the proper points on McKinley Drive, properly leading traffic to and away from the parking lot. Delivery of elections equipment on 6/1, Friday before Advanced Voting begins at this location. Pick up of elections equipment after 5:30pm on 6/5.
		<p style="text-align: center;">Equipment Needed</p> <ul style="list-style-type: none"> 4 BMDs – one ATI 2 UPSs 1 ICP tabulator 2 Poll Pads 2-25ft extension cords 2 tables; one being an ADA Height table Provisional Ballot Area & Magnifying Station Voter’s Certificates Advanced voting paperwork 	

ELECTION DAY VOTING

The Combined Presidential Preference Primary (PPP), General Primary and Non-partisan Elections will take place on June 9, 2020. It remains indefinite as to whether the State will continue under shelter in place orders or if the crisis will have abated. Because of these unknown factors, many of our precinct locations are not available for use unless the crisis has passed and the State and/or County reopens the buildings.

Five locations have indicated they will allow us into the building to hold this election. The remaining 19 are closed or hesitant under the current situation.

In addition, every operating location will follow the listed options provided in this document, listed as option #1, 2 or 3.

Note: All operating locations will serve as an **Absentee Drop-Off Location** from 7am to 5pm on Election Day. At 5:30pm, a member of the Board of Elections will collect the Absentee Ballots and deliver to the tabulation location, 2555 Lexington Road, to the Absentee Ballot Team.

We will implement the following plans if the crisis has not improved by June 1, 2020, incorporating the continued process of proper hygiene and social distancing mandate as noted on pages 23-26 of this document. We will operate with using all of our current 24 polling locations listed on page 2.

We will make clear indication of the 6-foot barrier per person by placing marks on the floor/ground at each location where lines are formed.

Listed are three options for voting on Election Day as it relates to loss of locations. State Law provides guideline related to emergency polling locations, shown on page 10 to support options listed in this document.

Directions and information leading up to Election Day will be posted on the home page of our website, our Face Book page; include a Legal Notice in the paper and share with all media circuits.

OFFICIAL CODE OF GEORGIA ANNOTATED

O.C.G.A. §21-2-265

- (a) The superintendent of a county or the governing authority of a municipality shall select and fix the polling place within each precinct and may, either on his, her, or its own motion or on petition of ten electors of a precinct, change the polling place within any precinct. Except in case of an emergency or unavoidable event occurring within ten days of a primary or election, which emergency or event renders any polling place unavailable for use at such primary or election, the superintendent of a county or the governing authority of a municipality shall not change any polling place until notice of the proposed change shall have been published for once a week for two consecutive weeks in the legal organ for the county or municipality in which the polling place is located. Additionally, on the first election day following such change, a notice of such change shall be posted on the previous polling place and at three other places in the immediate vicinity thereof. The occupant or owner of the previous polling place, or his or her agent, shall be notified in writing of such change at the time notice is published in the legal organ.
- (b) Except in case of an emergency or unavoidable event occurring within ten days of a primary or election, which emergency or event renders any polling place unavailable for use, if a petition is presented to the superintendent of a county or the governing authority of a municipality on or before the day set for hearing of the petition for change of a polling place, signed by 20 percent of the electors of the precinct objecting to the proposed change, such change shall not be ordered.

OPTION #1

Combined Election Day Locations

Challenge/objective:

- A. Three of the locations that are open are large enough to accommodate two or more precincts.
- B. Four of the locations in maybe/hold status are large enough to accommodate two or more precincts.
- C. After combining as many as possible, four of our largest precincts would remain at their current locations. These will be set up to vote outside the buildings, under cover near the school entrances. There would need to be a contingency plan for inclement weather.

LOCATION	STRATEGY	VOTERS
7B – ACC Library	Service three precincts. As of 4/5/2020, the Library has confirmed availability. Use meeting rooms #1 through 3 with partitions. Utilize the same social distancing and parking/car loop plan developed for Advanced Voting.	7B – ACC Library 3A – Clarke Central HS 5A – Oglethorpe Ave School
4B – Memorial Park	Service two precincts. As of 4/5/2020, Memorial Park has confirmed availability. Use main room and meeting room to separate precincts. Utilize similar plan as developed for Advanced voting at the Library with car loop or designated parking spaces with ACCGov employees directing traffic flow.	4B – Memorial Park (voters use Community Rm) 7C – Fire Station #3 at Five Points (voters use the Meeting Rm)
3B – Thomas Lay Park	Service three precincts. As of 4/5/2020, Thomas N. Lay Park has confirmed availability. Use first floor meeting/lunch room and gym. Divide Gym space into two precincts. Use designated parking spaces in lot across the street with ACCGov employees directing traffic flow.	3B – Thomas N. Lay Park (1/2 gym) 4A – Multi Modal Transit Center (1/2 gym) 5C – Chase Street School (Room)

OPTION #1 (cont'd)**Combined Election Day Locations**

LOCATION	STRATEGY	VOTERS
6B – Georgia Square Mall	Service three precincts. As of 4/5/2020, Georgia Square Mall is completely closed; but, with hesitation, will open the community room where 6B precinct is located. There are empty stores and common spaces that could house at least two more precincts if the management allows and sufficient electrical are available. Use Community Room for 6B and additional stores/open spaces as guided by mall management to house two additional precincts. Due to the size of the building, managing the flow of people and directing to correct area of the mall will be a challenge. It will require and undetermined amount of help from ACC Gov. Employees, stationed in different sections of the mall to direct voters. Place signs to direct traffic of each precinct to correct entrance and closest parking. Control social distancing once voters are inside with 6 foot spaces marked with tape, on the floor at the entrance to each precinct area.	6B – Georgia Square Mall 6A – Cleveland Road School 5B – Whitehead Road School
7A – Unitarian Universalist Fellowship	Service two precincts. As of 4/5/2020, Unitarian Universalist is currently closed to public gatherings. Though staff is concerned and hesitant, the church will open if the pandemic does not worsen. Use the lobby area for 7A. There is a medium size meeting room near the lobby that can be used for another small precinct. Utilize the designated parking plan similar to Advanced voting at the Library with ACC Gov. Employees directing traffic flow.	7A – Unitarian Universalist Fellowship (Lobby) 6D – Oglethorpe Fire Station # 4 (Meeting Room off of Lobby)

OPTION #1 (cont'd)**Combined Election Day Locations**

LOCATION	STRATEGY	VOTERS
1C – Barnett Shoals Elementary	Service two precincts. As of 4/5/2020, none of the CCSD buildings are available for use. Operations states that the schools are closed to the public. If direction from the State/County changes, they will reevaluate. This plan is implemented ONLY if CCSD allows us to utilize a few of the buildings to consolidate precincts. Use the cafeteria divided into two sections. There is the possibility of requesting the gym or a resource room for the second precinct. Allow cars to park as they please, use social distancing plan, marking 6 ft spaces on the floor with tape. Utilize ACC Gov employees to direct and control the flow of voters into the line and exiting the building to maintain safe distance from one another.	1C – Barnett Shoals School 8C – Barnett Shoals Fire Station # 7
1D – Whit Davis Elementary	Service two precincts. As of 4/5/2020, none of the CCSD buildings are available for use. Operations states that the schools are closed to the public. If direction from the State/County changes, they will reevaluate. This plan is implemented ONLY if CCSD allows us to utilize a few of the buildings to consolidate precincts. Divide the gym into two spaces or request another room to use for the second precinct. Allow cars to park as they please, use social distancing plan, marking 6 ft spaces on the floor with tape. Utilize ACC Gov employees to direct and control the flow of voters into the line and exiting the building to maintain safe distance from one another.	1D – Whit Davis School 8B – Cedar Shoals HS

OPTION #1 (cont'd)

Combined Election Day Locations

Here is one precinct who will serve only its voters:

LOCATION	STRATEGY	VOTERS
6D – ACC Fleet Management (One precinct)	As of 4/5/2020 is available if necessary. Mr. Saunders, rightly so, would like to tour the location with our staff to go over procedures to protect the public and workers. If the operations are closed that day, utilize all of the parking for voters with designated parking spaces. ACC Gov. employees will direct parking and send voters inside the building, controlling specified number they send inside at one time.	6D – ACC Fleet Management

Here are two precincts that are open, but not large enough or in optimal locations to house another precinct:

LOCATION	STRATEGY	VOTERS
1A – Winterville Train Depot	As of 4/5/2020, Winterville Train Depot is available for use. Utilize designated parking plan developed by Advance Voting. ACC Gov. employees will help with traffic flow.	1A – Winterville Train Depot
1B – ACC Tennis Center	As of 4/5/2020, ACC Tennis Center is available for use. Utilize designated parking plan developed for Advance Voting. ACC Gov. employees will help with traffic flow.	1B – ACC Tennis Center

Note: Four of the largest precincts are in schools. If the buildings remain closed to voting, provisional voting will be set up outside the buildings, under cover near the school entrances. There will be a need for an additional contingency depending on the weather. Utilize this plan for designated parking or car loops, depending on the school layout. ACC Gov. Employees will provide direction for parking or drive through. Social distancing will be maintained by taping six feet spaces on the ground extending away from the ballot casting/collection area. Those schools are:

2A – JJ Harris Elementary, 2B – Howard B Stroud Elementary, 6C – Timothy Road Elementary and 8A – Gaines Elementary

OPTION #2

LOCATION	STRATEGY	VOTERS
All Schools (12 of our 24 locations are held in schools)	As of 4/5/2020, none of the CCSD buildings are available for use. Operations states that the schools are closed to the public. If direction from the State/County changes, they will reevaluate. If the situation is the same on Election Day, 5/19, we will implement the following plan - except in the case of inclement weather when additional arrangements will be made. All school locations will vote using provisional ballots. A voting area will be set up under the covered entrance areas. Car lines or designated parking will be utilized depending on the best plan for each individual school.	1C – Barnett Shoals School 1D – Whit Davis School 2A – JJ Harris School 2B – Howard B. Stroud School 3A – Clarke Central HS 5A – Oglethorpe Ave School 5B – Whitehead Rd School 5C – Chase Street School 6C – Timothy Road School 8A – Gaines School 8B – Cedar Shoals HS
ACC Gov. Properties (Three of our 24 locations are held in an ACC Gov't Building)	For 5D – Precinct operates normally inside the building. Utilize similar plan as developed for Advanced Voting at the Library with car loop of designated parking spaces with ACC Gov. employees directing traffic flow. For 4A – Location will close and combine with 3B; this location is closed and has had an employee test positive for COVID-19. Do not Open. Send 4A voters to 3B, Thomas Lay Park. Use the first floor room/lunch space and designated parking spaces in lot across the street with ACC Gov. employees directing traffic flow. For 7B – Precinct operates normally inside the building. Utilize the same plans developed for Advance Voting at this location with car loop or designated parking spaces with ACC Gov. employees directing traffic flow.	5D – ACC Fleet 4A – ACC Transit 7B – Athens Regional Library

OPTION #2 (cont'd)

LOCATION	STRATEGY	VOTERS
ACC Parks (Three of our 24 locations are Park Community Buildings)	<p>For 4B – Precinct operates normally inside the building. Utilize similar plan as developed for Advanced voting locations with car loop or designated parking spaces with ACC Gov. employees directing traffic flow.</p> <p>For 3B – this location with adding the 4A voters, will host 3 locations. 3B Precinct operates normally inside the gym. Due to closure of ACC Multi Modal Transit Center. 4A voters will vote at Thomas N. Lay Park in the first floor room/lunch space. Use designated parking spaces in lot across the street with ACC Gov. employees directing traffic flow and entrance to the building.</p> <p>For 1B – Precinct operates normally inside the building. Utilize similar plan as developed for Advanced voting locations with car loop or designated parking spaces with ACC Gov. employees directing traffic flow.</p>	4B – Memorial Park 3B – Thomas Lay Park 1B – ACC Tennis Center
Fire Stations (Three of our 24 locations are Fire Stations)	The fire stations are closed for voting to reduce the risk of additional public exposure to our first responders. All voting at fire stations #3 – Five Points, #4 – Oglethorpe, and #7 – Barnett Shoals will be conducted under the covered entrances to the buildings unless another plan is needed due to inclement weather. ACC BOE or ACC Gov. will provide tents to extend the covered spaces, allowing more room to set up voting areas. Utilize similar plan developed for designated parking spaces with ACC Gov. employees directing traffic flow. Sidewalks/parking lot is marked with tape, designating six-foot social distancing spaces for the line toward the voting areas.	6D – Fire Station #4 7C – Fire Station # 3 8C – Fire Station #7

OPTION #2 (cont'd)

LOCATION	STRATEGY	VOTERS
<p style="text-align: center;">Churches (only one of our 24 locations is a church)</p>	<p>This is one of our newest polling locations beginning with the May Primary (unmerging of 6C/7A). Precinct will operate inside the building. Utilize similar plan as developed for Advanced voting locations with car loop or designated parking spaces with ACC Gov. employees directing traffic flow.</p>	<p style="text-align: center;">7A – Unitarian Universalist Fellowship</p>
<p style="text-align: center;">Other Locations (Two of our 24 locations are those that are considered other)</p>	<p>For 6B – Precinct operates normally in the Community Room on the second floor next to Sears's entrance. Voters follow signs directing them to the space. Floor is marked with tape, designating six-foot social distancing spaces for the line outside the door to the Community Room. ACC Gov. employees help to maintain voter line and direct any voters to the Community Room if needed.</p> <p>For 1A – Precinct operates normally inside the building. Utilize similar plan as developed for Advanced voting locations with car loop or designated parking spaces with ACC Gov. employees directing traffic flow.</p>	<p style="text-align: center;">6B – Georgia Square Mall 1A – Winterville Train Depot</p>

OPTION #3

LOCATION	STRATEGY	VOTERS
<p style="text-align: center;">BOE Office</p> <p style="text-align: center;">Athens Regional Library*</p> <p style="text-align: center;">Miriam Moore Community Center*</p> <p style="text-align: center;">Cooperative Extension* *if open allow us entry</p>	<p>To avoid confusion on Election Day, less number of locations is an option, particularly if the locations choose to not open and allow us the space. We will need additional splitter at Cooperative Extension Office for more use of laptops. All locations currently serve as Advance Voting sites. We will operate them according to the Advance Voting plans.</p> <p>Due to the many resignations of poll workers, many States are relying on their county employees to serve as poll workers. We will need to train them all virtually. If we go with this option, our need for workers and health risk to so many workers would greatly reduce.</p>	<p>All ACCUG voters will have the leniency of voting at any of the four locations. We will need to consider more traffic plans and outside voting possibilities of processing voters and allowing votes on Emergency Ballots.</p>

Route #1

Voting Route for COVID - 19 BOE Office & ADA Voters



DIRECTOR'S RECOMMENDATION

I have shared three options to support the remedy of this pandemic as it relates to the upcoming Election. It is my recommendation to consider Option #2 where the polling locations are combined, but held in separate rooms at another location.

1. All voters assigned to 6D-Fire Station #4 (Oglethorpe) would vote at the Regional Library; in separate from 7B (Library Precinct);
2. All voters assigned to 7C-Fire Station #3 (Five Points) would vote at Memorial Park; a room separate from 4B (Memorial Park Precinct);
3. All voters assigned to 8C-Fire Station #7 (Barnett Shoals) would vote at Hilsman Middle School.
4. All voters assigned to 4A-ACC Multi-Modal Transit would vote at Lay Park; separate from 3B (Lay Park Precinct)

Timeline:

- After meeting with the Fire Chief on Thursday, April 30, and meeting with the City Attorney on Friday, May 1, we will have information needed to present the following for vote at their May 5, 2020 monthly Board Meeting.
- Advertise in local organ, Legal Ad section – May 8, 19, 26, June 2 and 9.
- Post the information on our website beginning on May 8.
- Place signs as early May 26 locations inside the precinct boundaries.
- Place signs at the Fire Stations and Multi-Modal to instruct voters of their temporary locations on June 5.
- Take advantage of all opportunities to process this information to our voters, beginning on May 8.

ABSENTEE BALLOT PROCESS

On Monday, March 31, the Secretary of State's Office began mailing Absentee Ballot Applications to all active registered voters. As early as noon on Friday, April 3 we started receiving applications via email. On Monday, April 6, we began receiving applications by US Mail.

We enter the application into the ElectroNet system (ENet) and send SOS sends a ballot according to the preferred type; Democratic, Republican or Non-partisan.

We are listing FAQs on our website to assist our voters with processing the applications and the ballots.

Leading up to Election Day, in lieu of placing a stamp on the applications and/or voted ballots, our voters will have the option of using a drop-box, located at the front of our office, beginning on April 15, 2020.

Regarding drop boxes, currently, there is no law that allows drop boxes; however, the State is considering this as a contingency plan with a requirement of surveillance at the location of the drop box. This means it is very likely that we will only have one drop-box in Athens-Clarke that would meet that requirement.

As mentioned previously, prior to Election Day we will inform our voters of the drop off locations for Absentee Ballots. As an added service regarding collection of Absentee Ballots on Election Day and pending approval by the Board of Elections,

- We will deputize all Poll Managers at the locations to receive the Absentee Ballots.
- At 5:30 PM, a Board Member will transport those ballots to the Tabulation Center for tabulation before the polls close at 7pm.
- Voters will also have the option of leaving it inside the drop-box at the BOE Office through 7pm Election Day.

Q&A – June 9, 2020 Combine Presidential Preference and General Primary & Non-partisan Election

Questions & Answers about the combined June 9, 2020 Presidential Preference/General Primary/Non-Partisan Election

Q: If I voted early or by mail before the March 24, 2020 PPP was postponed, will my vote still count?

A: Yes. All ballots are held securely and will be counted on Election Night, May 19, 2020, along with all ballots for the May 19 Election.

Q: If I voted in March, do I still vote in May?

A: Yes. If you voted in March, you voted only for the Presidential Preference Primary candidates. The May Election ballot also includes the General Primary for Federal, State, and Local candidates, along with Non-partisan races; therefore, your ballot will *only* contain the General Primary and Non-partisan races.

Q: What happens if I *did not* vote in March?

A: Your ballot for the May 19 Election will contain both the PPP race, the General Primary and Nonpartisan races

Q: Will I receive an absentee ballot application to vote by mail?

A: The State sent out absentee ballot applications to the residential address of all active voters in the State of Georgia. However, if you do not receive one, you can visit the SOS website, https://sos.ga.gov/index.php/Elections/absentee_voting_in_georgia, to print out and complete an application.

Q: How do we get the completed application back to the elections office?

A: You can mail it to Athens-Clarke County Elections & Registration office, P O Box 1828, Athens GA 30603; you can scan and email it to paula.williams@accgov.com or you can drop it in our drop box located near the front door of our office located at 155 E. Washington Street. (Drop box available on April 15, 2020)

Q: Can I still register to vote for the May 19 Election?

A: Yes. The voter registration deadline for the May 19 Election is April 20. Visit My Voter Page, www.mvp.sos.ga.gov to register online or to verify registration status.

Q: What is the deadline to submit an Absentee Ballot Application?

A: May 15th is the last day to submit a request. We recommend that you submit an application as early as possible to process mailing of the ballot, allowing ample time for our office to receive your voted ballot by 7:00 PM Election Day, May 19th.

When completing the Absentee Ballot Application, please make sure you choose a ballot type (Democratic, Republican, or Non-partisan) and sign the application.

Q: What if I cannot locate the application that was sent to me in the mail by the SOS Office?

A: You can visit the SOS website, https://sos.ga.gov/index.php/Elections/absentee_voting_in_georgia, to print out and complete an application. You should mail it to Athens-Clarke County Elections & Registration, P O Box 1828, Athens, GA 30603; you can scan and email it to paula.williams@accgov.com or you can drop it in our drop box located near the front door of our office at 155 E. Washington Street. (Drop box will be available on April 15, 2020)

PLEASE NOTE: If you choose a Non-partisan ballot, you will *ONLY* receive Judicial, County Commission and School Board races on your ballot. There will be NO Democratic or Republican races on your ballot (US Senate, State Senate, State Representative, Sheriff, Tax Commission, etc.).

If you have any other questions, please feel free to call our office at 706-613-3150.

Sanitation Practices for Use under COVID -19 Conditions at the Poll Locations

Background supplied by the Centers for Disease Control under Recommendations for Election Polling Locations:

There is much to learn about the novel coronavirus (SARS-CoV-2) that causes corona virus disease (COVID-19). Based on what is currently known about SARS-CoV-2 and about similar coronaviruses, spread from person-to-person happens most frequently among close contacts (within about 6 feet). This type of transmission occurs via respiratory droplets. Transmission of SARS-CoV-2 to persons from surfaces contaminated with the virus has not been documented. Transmission of coronavirus in general occurs much more commonly through respiratory droplets than through contact with contaminated surfaces. Current evidence suggests that SARS-CoV-2 may remain viable for hours to days on surfaces made from a variety of materials. Cleaning of visibly dirty surfaces followed by disinfection is a best practice measure for prevention of COVID-19 and other viral respiratory illnesses in election polling locations.

Preventative actions poll workers can take:

Stay home if they have a fever, respiratory symptoms, or believe they are sick.

Practice frequent hand washing with soap and water for at least 20 seconds. If not readily available, use hand sanitizer containing at least 60% alcohol.

Practice routine cleaning and disinfecting of frequently touched surfaces: tables, doorknobs, and voting associated equipment.

Preventative action polling location workers can take for themselves and the general public:

Based on available data, the most important measures to prevent transmission of viruses in crowded public areas include careful and consistent cleaning of one's hands. Therefore:

Ensure bathroom at the polling station are supplied with soap, water, and drying material so visitors and staff can wash their hands.

Provide alcohol-based hand sanitizer with at least 60% alcohol for use before and after using a voting machine. Place the sanitizer in visible locations such as the check in stations and near the exits.

Incorporate social distancing strategies, increasing the space between individuals and reducing the risk of spreading the disease. 6 feet apart is ideal based on what is known about COVID-19.

Increase distance between voting booths

Limit nonessential visitors. Voters should be encouraged not to bring children and family members who are not voting.

Provide signs and taped floor markings to encourage 6 feet of distance between voters.

Discourage voters and workers from greeting each other with physical contact such as handshakes.

Poll workers will be provided with PPE:

Mask and a supply of gloves sufficient to change throughout the day as needed to prevent cross contamination.

Direct Instructions for poll workers:

The normal tasks of operating a polling location are divided among the staff. These are generally:

Manager – paperwork and supervision

Poll Pad Operators – Check in

ICP Monitor – Precinct Scanner

Floater – Assists voters with general questions and monitors voting booths

Line Monitor – Outside the door to the location, maintains line.

All Poll Workers –

Wear mask while working. It may be removed if they are on break and away from the voting area and others.

Wear gloves. Periodically change them for a new pair. Follow the safe procedure for glove removal and dispose in the BIOHAZARD CONTAINER ONLY.

Manager –

Supervise the overall sanitation of the polling location. Guaranteeing that BMDs, Printers, Voter Access Cards, and Poll Pad Stylus are wiped with alcohol pads or alcohol dampened microfiber cloths between each use. Supervise the maintenance of social distancing of at least 6 feet between voters.

Be available to intervene and direct voters if distancing is not being maintained after guidance from one of the other poll workers.

Poll Pad Operators –

Maintain 6 feet distance from voters during the check-in process.

Wipe the stylus with an alcohol pad or alcohol dampened microfiber cloth between each voter processed.

As voter access cards are rotated to their check in station, wipe them with a cloth slightly dampened with alcohol. AVOID THE SMART CHIP. On every half-hour, wipe down the Poll Pad surface with a cloth slightly dampened with alcohol.

ICP Monitor –

Maintain as much distance as practical from the voter as they place their ballot into the ICP.

On every half-hour wipe down the ICP and Ballot Box with a cloth slightly dampened with alcohol.

Floater –

Maintain as much distance as practical will assisting voters.

Wipe down the surface of a BMD with a cloth SLIGHTLY dampened with alcohol after **each** use by a voter. Do not let liquid pool on the screen or drip into any opening of the BMD. Be aware that Dominion Voting recommends ONLY wiping the screen when the device is OFF. In this case, they must be cleaned. Proceed with the awareness that your touch may cause an option to be chosen. Ask for assistance from your manager if this occurs.

Wipe down a printer with a cloth SLIGHTLY dampened with alcohol after **each** use by a voter. Do not let liquid pool on or drip into the printer. Monitor and enforce to the best of their ability 6 foot of social distancing between everyone in the polling location.

Line Monitor –

Maintain 6 foot social distancing of voters in the line outside the voting location.

Tape the ground with lines, marking 6 feet line spacing.

Source:

Coronavirus Disease 2019 (COVID-19); Recommendations for Election Polling Locations; Updated 3/27/2020;
<https://www.cdc.gov/coronavirus/2019-ncov/community/election-polling-locations.html>

CLOSING

During a State of Emergency, only the Secretary of State can suspend the duty of conducting Elections, per O.C.G.A. § 21-2-50.1.

These plans shall be used in conjunction with the Athens-Clarke County Emergency Plan and Shelter in Place Plan (located on the County's website and the Secretary of State's Emergency Plan).

The department measures its responses to emergencies by the degree of alert created by an emergency such as the COVID-19 pandemic. As always, if an employee begins to show signs of infection, he/she shall notify the Poll Manager and/or Elections Director immediately.

In spite of our current circumstances, we will continue providing excellent voting services the voters of Athens-Clarke County.

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**DONNA CURLING, ET AL.,
Plaintiffs,**

v.

**BRAD RAFFENSPERGER, ET AL.,
Defendants.**

Civil Action No. 1:17-CV-2989-AT

**COALITION PLAINTIFFS' DETAILED
SPECIFICATION IN SUPPORT OF MOTION FOR ATTORNEYS' FEES**

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Having timely filed a Special Motion for Award of Attorneys' Fees and Costs (Doc. 595)("the Special Motion"), the Coalition Plaintiffs now submit this Detailed Specification of those fees pursuant to Local Rule 54.2A(2).

I. INTRODUCTION

This case has vindicated and protected the rights of seven million Georgians to vote and to have their vote counted. In the face of daily warnings from the nation's top intelligence and cyber-security officials, the State of Georgia refused to recognize or address the profound vulnerability of its DRE voting system. The evidence – from the State's willful failure to address the impact of the exposure at CES/KSU to the State's courtroom admission that the GEMS databases are built by contractors in their homes – confirmed that the State would be a prime target for disruption or undetectable malicious manipulation.

But for this litigation and the granting of injunctive relief, Georgia would still be using the DRE system, and its faulty electronic pollbooks, in elections in 2020 and would have no constitutional alternative to fall back upon in the event the State's new BMD system cannot be deployed for 2020 elections. Without the injunctive relief that has been obtained by the Plaintiffs, the risk of catastrophe for the voters of Georgia was real and substantial. The Court has provided for fail-safe

alternatives to protect 2020 elections from the extreme risks of using paperless DREs by requiring the use of hand-marked paper ballot in pilot elections and in the event the BMD system cannot be implemented on time or is itself found to be constitutionally defective. The Court also directed the State to address the defects in the electronic pollbooks that are part of the DRE voting system.

Though much work needs to be done by the State of Georgia before it deploys a safe, constitutional voting system, the granting of injunctive relief at this stage already constitutes success on the merits entitling the Coalition Plaintiffs to an award of reasonable attorneys' fees and expenses.

Coalition Plaintiffs should be awarded their attorneys' fees and expenses incurred to date of \$1,406,393 and \$340,965, respectively, as prevailing parties under 42 U.S.C. § 1988 based on this Court's August 15, 2019 Order ("the Preliminary Injunction," Doc. 579) granting in part Coalition Plaintiffs' Motion for Preliminary Injunction (Doc. 419). Pursuant to Local Rule 54.2, this Brief and the attachments hereto contain a "detailed specification and itemization of the requested award, with appropriate affidavits and other supporting documentation." In Part II, this Brief restates and supplements the basis of which entitlement to the award is claimed as originally set forth in the Special Motion (Doc. 595). Part III of this Brief summarizes the familiar legal standards. Part IV addresses the reasonableness of the amount of time spent on the case, providing a detailed

narrative description of the work. Part V addresses the reasonableness of the rates, Part VI addresses the reasonableness of the expenses, and Part VII provides a summary of the amounts sought.

II. COALITION PLAINTIFFS ARE PREVAILING PARTIES¹

A. Preliminary Injunction Entitles Plaintiffs to An Award of Fees

It is well established that “a preliminary injunction is a ‘material alteration of the legal relationship of the parties’” entitling the plaintiff to an award of fees and expenses as the prevailing party under Section 1988. *Common Cause/Georgia v. Billups*, 554 F.3d 1340, 1356 (11th Cir. 2009). *See also Williams a/k/a Occasional Superstar v. City of Atlanta*, No. 1:17-CV-1943-AT, 2018 WL 2284374, at *3 (N.D. Ga. Mar. 30, 2018) (“*Occasional Superstar*”) (“More recently, the Supreme Court reiterated its repeated holding that, ‘an injunction or declaratory judgment, like a damages award, will usually satisfy [the prevailing party test].’ *Lefemine v. Wideman*, 568 U.S. 1, 4 (2012) (finding the plaintiff to be

¹ Parts II(A), (B) and (C) of this Brief are substantially the same as the discussion in the Coalition Plaintiffs’ Special Motion (Doc. 595), and have been restated herein for the Court’s convenience.

a prevailing party when he obtained an injunction to terminate a continuing threat of potential criminal sanctions for engaging in public protest activity.”)).²

In the Preliminary Injunction, this Court materially altered the legal relationship of the parties by ordering immediate, wide-spread injunctive relief relating to multiple aspects of the State’s election system, as explained in greater detail below.

B. Plaintiffs Obtained an Excellent Result

The Preliminary Injunction granted the Coalition Plaintiffs substantial relief – an “excellent result” - on the merits. In this litigation, the Plaintiffs claimed a First and Fourteenth Amendment right to cast a vote that is properly counted. *See generally Curling v. Kemp*, 334 F. Supp. 3d 1303 (N.D. Ga. 2018); (Preliminary Injunction, Doc. 579 at 3). In the Complaint and in the Amended Complaints, the Plaintiffs alleged that the State Defendants were infringing on their right to cast a vote that is properly counted by continuing to use the profoundly vulnerable DRE system, and, in similar counts under the Equal Protection and Due Process Clauses

² Fee awards to prevailing plaintiffs in a § 1983 civil rights action are not limited to those actions where damages are either sought or obtained. *Riverside v. Rivera*, 477 U.S. 561, 575 (1986) (“Because damages awards do not reflect fully the public benefit advanced by civil rights litigation, Congress did not intend for fees in civil rights cases, unlike most private law cases, to depend on obtaining substantial monetary relief.”).

of the U.S. Constitution, sought to enjoin the State Defendants from using the DREs in future Georgia elections and to address the defects in the electronic pollbooks, and for other relief.

Over the course of this litigation, the Plaintiffs amassed mountains of evidence and expert testimony proving the defective operation of the DRE voting system and the security risks it posed, cataloguing the “pervasive voting problems arising in the 2017-2018 election period,” (Doc. 579 at 5), and supporting the equities of granting injunctive relief. The evidentiary record Plaintiffs established is detailed in the Court’s exhaustive 46-page September 17, 2018 Order, which found Plaintiffs’ “are substantially likely to succeed on the merits of one or more of their constitutional claims,” (Doc. 309), in the Court’s 61-page May 21, 2019 Order, which denied Defendants’ motion to dismiss as to each of the Coalition Plaintiffs’ claims,³ (Doc. 375), and most recently in the Court’s 153-page August 15, 2019 Order. (Doc. 579).

Coalition Plaintiffs also defeated *each* of the numerous defenses raised by the Defendants, including the alleged absence of concrete injury in fact (addressed at Doc. 309 pages 17-22), lack of causation (*id.* at 22), lack of redressability (*id.* at

³ In the May 21, 2019 Order, the Court denied in its entirety the Defendants’ motions to dismiss the Coalition Plaintiffs’ Complaint. (Doc. 375 at 61).

25-26), alleged “manufactured standing” (*id.* at 27), lack of organizational standing (*id.* at 27), lack of standing due to residency of named plaintiffs (*id.* at 28-29), “meritless” Eleventh Amendment immunity defenses (*id.* at 29 – 30), application of res judicata and collateral estoppel (Doc. 375 at 14-34), failure to state a viable claim for due process and equal protection violations (*id.* at 34 – 53), supposed improper joinder of the Members of the State Board of Elections (*id.* at 53 – 54), and the alleged need to join as parties defendant the municipalities conducting November 2019 election (Doc. 579 at 12-21).

In the Preliminary Injunction, the Court agreed that the “record in this case is substantial,” (Doc. 579 at 5), that the Plaintiffs had carried their burden of establishing a likelihood of success on the merits, and that the equities compelled the granting of wide-ranging injunctive relief. (Doc. 579 at 129 -153). By any measure, Coalition Plaintiffs have obtained an “excellent result” and should be fully compensated for “all time reasonably expended on the litigation.” *Popham*, 820 F.2d at 1578.

C. Excellence of Result Further Confirmed by Specific Relief Granted

Because the Coalition Plaintiffs achieved “excellent results” on the objectives of the litigation, it is not necessary for the purposes of determining entitlement to fees (or the amount of the fee award) to examine each particular

claim or theory to determine whether or to what extent the claim or theory was considered by the Court or was the basis for relief. “In these circumstances the fee award should not be reduced simply because the plaintiff failed to prevail on every contention raised in the lawsuit.” *Hensley*, 461 U.S. at 435. In addition, the fact that Coalition Plaintiffs advanced alternative legal grounds for relief obtained has no impact on the fee. “Litigants in good faith may raise alternative legal grounds for a desired outcome, and the court's rejection of or failure to reach certain grounds is not a sufficient reason for reducing a fee. The result is what matters.” *Id.*

Nevertheless, the broad-ranging and comprehensive nature of the injunctive relief ordered by this Court underscores Coalition Plaintiffs’ entitlement to 100% of its reasonable fees and expenses, as outlined below:

1. Ban on DREs After 2019

As discussed above, in their 2018 Motion for Preliminary Injunction (Doc. 258) and in their 2019 Motion for Preliminary Injunction (Doc. 419), Coalition Plaintiffs sought to enjoin Defendants from using DRE machines in upcoming Georgia elections. (Doc. 258 at 1; Doc. 419 at 2). The Court granted this relief in substantial part: In the Preliminary Injunction, this Court directed the State Defendants to “refrain from the use of the GEMS/DRE system in conducting elections after 2019.” (Doc. 579 at 148).

2. *Providing a Constitutional Alternative to BMDs for 2020 Elections*

In support of their 2019 Motion for Preliminary Injunction, Coalition Plaintiffs built upon the record previously adduced and argued that “granting injunctive relief now” by replacing DREs with hand-marked paper ballots “will provide a safe, sensible, constitutional alternative to, and contingency for, the State’s planned deployment of the BMD system in 2020.” (Doc. 419-1 at 9). Coalition Plaintiffs argued that, unless the State Defendants were required to replace DREs with an auditable system using hand-marked paper ballots and optical ballot scanners, if deployment of the new BMD system were delayed, inadequate or derailed, Georgia voters would have no constitutional voting alternative in numerous elections in the 2020 Presidential election cycle. (Doc. 419-1 at 4). Both in their briefs and in their submissions from experts, the Coalition Plaintiffs urged the Court to require the State Defendants to start using hand-marked paper ballots beginning October 1, 2019, so that the State would have a default plan in the event BMD deployment failed. (*E.g.*, Doc. 419-1 at 4, 9, 49; Doc. 413 at 220, 254, 282).

The Court granted this relief, requiring the State Defendants to begin using hand-marked paper ballots in pilot elections in 2019 and in the 2020 elections prior to the deployment of the new BMD system. Thus, in the Preliminary Injunction, this Court directed the State Defendants “to develop a default plan” using “hand-

marked paper ballots” in the event “the new BMD system enacted by the State Legislature may not be completely rolled out and ready in time for operation in time for the March 2020 Presidential Primary elections.” (Doc. 579 at 148). The Court directed the State Defendants, as a part of this default plan, to “identify a select number of counties or jurisdictions that agree to implement a pilot election in November 2019 using hand-marked paper ballots along with optical ballot scanners and voter-verifiable, auditable ballot records.” (Doc. 579 at 148).

3. *Audits*

The Coalition Plaintiffs moved this Court to require the State Election Board to develop and file pre-certification audits plans. The Court directed the State Defendants to “promptly file with the Court all proposed and final audit requirements that the State Election Board and Secretary of State’s Office considers or approves in connection with elections to be held in 2020 or thereafter.” (Doc. 579 at 152; *see also id.* at 148-49).

4. *Electronic pollbooks and Related Injunctive Relief*

Coalition Plaintiffs moved the Court for multi-faceted relief relating to the reliability of the voter registration database and the ExpressPoll electronic pollbooks. In particular, Coalition Plaintiffs moved the Court to direct the Secretary to file a plan with the Court addressing:

the procedures to be undertaken by election officials to address errors and discrepancies in the electronic pollbooks or voter registration database that may cause eligible voters to (i) not appear as eligible voters in electronic pollbooks, (ii) receive the wrong ballot, (iii) be assigned to the wrong precinct in the electronic pollbook, or (iv) be prevented from casting a regular ballot in their properly assigned precinct.

(Doc. 419 at 4). The Court directed the State Defendants:

to develop a plan for implementation by **NO LATER THAN JANUARY 3, 2020**, that addresses the procedures to be undertaken by election officials to address errors and discrepancies in the voter registration database that may cause eligible voters to (i) not appear as eligible voters in the electronic pollbooks; (ii) receive the wrong ballot; (iii) be assigned to the wrong precinct in the electronic pollbooks; or (iv) be prevented from casting a regular ballot in their properly assigned precinct. A copy of the plan shall be provided to Plaintiffs’ counsel.

(Doc. 579 at 150) (emphasis by the Court).

The Coalition Plaintiffs further moved the Court to direct the Secretary to file a plan with the Court for county election officials and poll workers “to provide for use of an updated paper back-up of the pollbook in the polling places for adjudicating voter eligibility and precinct assignment problems.” (Doc. 419 at 4). The Court, recognizing that accurate pollbooks in the polling place are imperative, ordered the State Defendants to “require all County Election Offices to furnish each precinct location with at least one print-out of the voter registration list for that precinct.” (Doc. 579 at 150).

The Coalition Plaintiffs moved the Court to direct the State Defendants “to immediately instruct every Superintendent in all elections to ensure that every person attempting to vote but who is denied a ballot is immediately informed by poll officials that they are entitled to cast a provisional ballot.” (Doc. 419 at 4).

The Court granted this relief, directing the State Defendants to:

provide clear pre-election guidance to all Count Election Officials regarding all polling officials’ mandatory duty under the law to provide voters the option of completing provisional ballots, including those who do not appear on the electronic voter registration database at a specific precinct or at all.

(Doc. 579 at 150). The Court further directed the State Defendants to:

continue in future elections to prominently post information concerning the casting of provisional ballots and voters’ submission of additional information, including their registration status, and voters’ capacity to check the status of their provisional ballot on the SOS website throughout the course of any state or federal election.

(*Id.*)

Coalition Plaintiffs moved the Court to direct the State Defendants to “undertake a review of the pollbook software to determine the source of the defect or malware and promptly undertake remedial action” (Doc. 419 at 3) and to submit a plan with the Court that addresses “a security evaluation” of voting system components, “including electronic pollbooks” to “detect malware or other significant security vulnerabilities.” (Doc. 419 at 4). The Court ordered the Secretary of State’s Office to

work with its consulting cybersecurity firm to conduct an in-depth review and formal assessment of the issues relating to exposure and accuracy of the voter registration database discussed here as well as those related issues that will migrate over to the State's database or its new vendor's handling of the EPoll voter database and function.

(Doc. 579 at 150).

The successful character of the Coalition Plaintiffs' litigation efforts is plainly evident from each of the foregoing rulings. This Court has granted significant and substantial relief that altered the pre-litigation status quo between the parties. This Court did so in answer to the claims of constitutional violations raised by the Coalition Plaintiffs. This outcome is, measured by any standard, an excellent result.

D. No "Special Circumstances" Warranting Reduction in Fees

There is no reason for the Court not to award 100% of the reasonable time and expenses incurred. Two arguments that Defendants may raise are addressed below.

1. Passage of HB 316 Does Not Impact Award

The Defendants may contend that the Plaintiffs are not entitled to fees because the Defendants would have taken the same actions even without a Court order, pursuant to HB 316. This argument should be rejected for a number of reasons.

First, the test for determining whether a plaintiff is entitled to attorneys’ fees under Section 1988 is not whether the defendant would have acted differently without the granting of injunctive relief. Instead, the test is whether the injunction constitutes a “material alteration of the legal relationship of the parties.” *Common Cause/Georgia v. Billups*, 554 F.3d 1340, 1356 (11th Cir. 2009). Here, the Court’s Order materially altered the legal relationship of the parties by ordering the State Defendants to take all the actions described therein.

Second, the relief ordered by the Court goes far beyond anything the State would otherwise have done pursuant to HB 316. HB 316 mandates no particular time frame for the conversion to a new system. HB 316 does not ban DREs effective January 1, 2020, does not require the State to develop a backup plan using hand-marked paper ballots, and does not require the State to remediate the electronic pollbooks or ensure that paper copies of registration information are placed in the precincts.

Third, even if the only thing the Court’s Order accomplished was to ban DREs effective January 1, 2020—and to be clear, the Order does much more than that—any suggestion that the State would have acted on its own initiative to replace the unconstitutional DREs without this litigation is both irrelevant and completely contrary to the evidentiary record. The State Defendants *and* Fulton County have consistently resisted the outcome produced by this Court’s Order

since the start of this litigation. On April 16, 2018, the Coalition Plaintiffs followed up on numerous prior communications by making a formal demand upon counsel for the State Defendants that the DREs be replaced with hand-marked paper ballots. (Doc. 258-1 at 93 and *id.* at 98 n.3 (listing numerous prior demands)). Counsel for the State Defendants did not respond. In a July 26, 2018, letter from Coalition Plaintiffs' counsel to counsel for the State Defendants, counsel described the urgent warnings from House Intelligence Committee Chairman Devin Nunes and DHS Secretary Nielsen to ban electronic voting and again demanded that the DREs be replaced by hand-marked paper ballots. (Doc. 258-1 at 91). Again, counsel for the State Defendants did not respond. In an August 1, 2018, Official Election Bulletin to county elections officials, State Elections Director Chris Harvey stated: "To this day, there is no credible evidence that our election process is anything except secure and accurate." (Doc. 258-1 at 104). Based on the State Defendants' failure to take any action in response to Plaintiffs' demands or in response to the warning from federal officials, the Coalition Plaintiffs filed their 2018 Motion for Preliminary Injunction.⁴

⁴ On April 13, 2018, then Secretary of State Kemp announced the formation of the Secure, Accessible & Fair Elections (SAFE) Commission. (Doc. 260-1 n. 18). But the SAFE Commission met only once and took no action before Coalition Plaintiffs' filed the Motion for Preliminary Injunction on August 3, 2018 (Doc. 258; *see also* Doc. 260-1, n 21).

In response to the 2018 Motion, the State Defendants gave no indication that they intended to replace the DREs or even that they took the matter seriously. Instead, they cast aspersions on Plaintiffs' concerns, saying, "Luddite prejudices against software technology are insufficient justification to override a statutory regime promulgated by duly-elected legislators, sustained against prior constitutional challenges, and overseen by state officials acting pursuant to their respective duties within that legislative framework." (Doc. 265 at 28).

The State Defendants called the concept of "undetectable manipulation" as "oxymoronic," a position decimated by the Coalition Plaintiffs' authoritative expert testimony. (DeMillo Decl., Doc. 277 at 55 ("Undetectable manipulation is the most common, widely recognized, and serious threat facing computer systems, including election systems.") *See also Curling*, 324 F. Supp. 2d at 1328 ("Advanced persistent threats in this data-driven world and ordinary hacking are unfortunately here to stay. Defendants will fail to address that reality if they demand as paranoia the research-based findings of national cybersecurity engineers and experts in the field of elections."))

Even without any experts of their own, the State Defendants belittled the expertise arrayed against them, saying: "Plaintiffs' so-called experts are Ph.D. candidates, a hacker, and lower-level functionaries from other states." (Doc. 265 at 11-12). This dismissiveness was utterly unwarranted. Mr. Bernhard is a Ph.D.

“candidate,” but he distinguished himself as an expert in direct and on cross-examination in hearings in 2018 and 2019 – testimony which the State Defendants have never even attempted to impeach or contradict. Logan Lamb is not a “hacker,” but a civic-minded individual who in absolute good faith reported the outrageous vulnerability of the State’s compromised elections server to KSU officials as soon as he discovered it. The “lower-level functionaries” were in fact outstanding expert witnessess whom the Court had the opportunity to observe in person in the 2019 hearings, Amber McReynolds and Virginia Martin. The State Defendants apparently could find no critical epithets for the Coalition Plaintiffs’ other experts—Dr. Richard DeMillo, the Charlotte B. and Roger C. Warren Chair of Computer Science at Georgia Tech, or Dr. Philip Stark who, among other accomplishments, invented the risk limiting audit—so the State prudently says nothing at all. (Doc. 296 at 8.)

At the hearing, the State’s counsel asked Professor Halderman if he knew anything about Georgia and how many times he had been to Georgia before concluding, in grand-finale fashion, “Do you know where the Big Chicken is?” (Doc. 307 at 102–03). Fulton County, for its part, likewise engaged no experts of its own and instead argued only that Dr. Halderman’s demonstration was irrelevant because he was using Ballot Station Version 4.3, 4.4 and 4.6, but not Version 4.5, which is the one used in Georgia. (Doc. 307 at 118). There is no indication Fulton

County actually believed that this distinction made any difference; yet they made the argument anyway. And, in response to questioning by the Court, Dr. Halderman explained that the version of Ballot Station that he was able to compromise in his demonstration was actually a *more secure* version than the version used by Georgia. (Doc. 307 at 120).

The State Defendants also took the position that the results of elections on DREs could be audited. “What I’m trying to point out is the representation of my friends on the other side that these things cannot be audited is untrue. . . . You can audit these things.” (Doc. 307 at 58). Fulton County and the State Defendants took the position that if individual voters were concerned about their votes being counted on the DREs, they could always vote by absentee ballot. (Doc. 307 at 63; Doc. 265 at 28).

The State’s position in 2018 was that the State’s voting system was secure enough and would be no more secure if the State switched to hand-marked paper ballots. In opposing the 2018 Motion for Preliminary Injunction, the State Defendants relied heavily on the testimony offered in the declaration of Secretary of State Chief Information Officer Merritt Beaver, who stated: “Moving to paper ballots for the voting mechanism would not add one iota of protection to the state’s voter registration database, air-gapped ballot building network, or other online tools such as election night reporting.” (Doc. 265-1 at 5). In cross-examination a

year later, however, Michael Barnes revealed for the first time that the “air-gapped ballot building network” that Mr. Beaver touted in 2018 was in fact three independent contractors programming each of the State’s 159 election databases from their homes and then transmitting the databases to the Secretary of State’s *public facing* internet server via thumb drive.

In this litigation, the Defendants forced the Plaintiffs to spend the time and the money to defeat each of these factual and legal positions. Such conduct directly contradicts the State’s present claim that it would be preparing to abandon DREs even in the absence of the Coalition Plaintiffs’ litigation efforts and this Court’s resulting judicial mandate. Moreover, if the State Defendants intended to replace the DREs as a matter of course, they would not have wasted taxpayer money by pursuing an interlocutory appeal of this Court’s 2018 Order on frivolous grounds of jurisdiction and standing. The State’s position resembles the position of Fulton County in *Webster Greenthumb Co. v. Fulton County*, 112 F. Supp. 2d 1339, 1347–48 (N.D. Ga. 2000). In *Webster Greenthumb*, Judge Thrash granted the plaintiffs’ motion for fees under Section 1988, rejecting the County’s argument that it would have dismantled a challenged program without the litigation:

Indeed, if Fulton County really had planned to dismantle the MFBE program on its own accord within the three months immediately following issuance of the injunction, there would have been little reason for the County to request, as it did, a stay of the injunction until

after the Eleventh Circuit decided the case on appeal. Certainly, if the County did not intend to renew the MFBE program, it would not have wasted the taxpayers' money appealing the Order abolishing it.

So too here. It was only after this Court held that the Plaintiffs had a likelihood of success on the merits that the State passed HB 316—which it did simultaneously appealing this Court's jurisdiction. In the first status conference after the Eleventh Circuit affirmed this Court's denial of the State Defendants' immunity defenses, the State Defendants' counsel acknowledged that the State's legislative action was in direct response to this litigation:

Your Honor, as you are aware, you issued an order at the end of last year telling the state to get moving, so-to-speak . . . and that, you know, as time continue forward, if the state wasn't moving – wasn't movin along that their arguments regarding lack of resources and difficulties changing to an all paper ballot system would weaken. The state took that to heart. And as you are aware, House Bill 316, which is now Act 24, has been signed into law.

(Doc. 363 at 4-5).

The passage of HB 316 did not make the retirement of the DREs, and does not make the implementation of new Dominion BMD system, inevitable. Throughout this case, the State Defendants have repeatedly emphasized the difficulty of replacing the DRE system. (Doc. 307 at 53 (State Defendants' counsel explaining that Maryland's conversion took 8 years)). Had this Court not enjoined the State Defendants, then when and if the State encountered delays or

budgetary shortfalls, the State Defendants would have been free simply to reverse course and continue using the unconstitutional DREs for the 2020 Presidential elections.

In sum, Defendants have never conceded anything, and instead have forced the Coalition Plaintiffs to expend an enormous amount of time and money to prosecute this lawsuit to its successful completion. Defendants cannot now claim that this lawsuit was unnecessary and that this Court's injunction orders have not produced a change in the legal relationship between the parties..

2. *Two Sets of Plaintiffs Does not Warrant Reduction*

Defendants may contend that the fact that there are two sets of Plaintiffs should reduce Plaintiffs' recovery under Section 1988. This is incorrect.

First, the Coalition Plaintiffs and the Curling Plaintiffs cannot have the same lawyers because they have firmly held, conflicting positions on important issues in the case. For example, in 2018, the Curling Plaintiffs sought an order banning DREs and requiring the Secretary to mail absentee ballots to each registered voter, a proposal that the Coalition Plaintiffs (more keenly aware of the Secretary's abysmal record on absentee balloting) opposed. The Curling Plaintiffs dropped the proposal before the 2018 hearing, but the two sets of plaintiffs obviously needed, and were entitled to, separate representation.

Second, the time spent by the Coalition Plaintiffs and the Curling Plaintiffs has been complementary, not overlapping. Throughout the litigation, the Curling Plaintiffs have focused upon, and invested heavily in, the cyber-security threats to Georgia's system, with the engagement of Dr. Halderman and the establishment of laboratories for the review of the GEMS databases and servers in Washington, D.C. and Ann Arbor, Michigan. The Coalition Plaintiffs, on the other hand, have focused on the vulnerability of the system at the local level, the feasibility of transitioning to hand-marked paper ballots, the evidence of vulnerability in the Lieutenant Governor's race, the gathering of substantial evidence from voters with actual experience in the 2018 elections, and the evidentiary impact of the State's destruction of the KSU/CES server. In addition, where feasible and efficient, the two sets of Plaintiffs have joined efforts.

Third, as a matter of law, even if the efforts of the Curling Plaintiffs were duplicative of the efforts of the Coalition Plaintiffs, that would still properly have no impact on Plaintiffs' fee recovery. *Dowdell v. Apopka*, 698 F.2d 1181, 1188 (11th Cir. 1983) (rejecting argument that similar or overlapping work should not be compensated, holding: "All attorneys who contribute their services to a case may be awarded reasonable attorneys' fees."); *Tasby v. Estes*, 651 F.2d 287 (5th Cir. 1981) (authorizing the award of two fees even when work is partially duplicative); *Webster Greenthumb* at 1350 ("Work performed by multiple attorneys, however,

is not subject to reduction where the attorneys were not unreasonably doing the same work.”).

III. LEGAL STANDARD

When assessing an award of attorneys’ fees, a district court must first calculate the lodestar amount – the number of hours reasonably expended multiplied by a reasonable hourly rate. *Hensley*, 461 U.S. at 433. The lodestar “yields a fee that is presumptively sufficient.” *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 552 (2010). After calculating the lodestar, the Court may adjust the amount based on a number of factors, such as the quality of the results obtained and the legal representation provided. *Duckworth v. Whisenant*, 97 F.3d 1393, 1396 (11th Cir. 1996).

Pursuant to this well-established precedent, Coalitions Plaintiffs in Part IV show the reasonableness of the hours expended and, in Part V, demonstrate the reasonableness of the rates. Part VI address reasonableness of the expenses.

IV. REASONABLENESS OF TIME

Table I divides the litigation into seven periods of time, or phases, and shows the total number of hours spent by each firm or lawyer during each phase. Though particular activities predominated in each phase of the case, many activities (e.g., investigative fact-gathering, formal discovery, efforts aimed at

preservation of evidence, expert witness preparation, conferral discussions)
occurred in every phase.

Table II - Coalition Plaintiffs' Hours by Phase								
Phase	Dates	Major Activities in the Phase	McGuire	Ichter	Brown	The LC	Ney	Total
I	2017 to February 28, 2018	Case Initiation, State Court Complaint; Second Amended Complaint	153	10			70	233
II	March 1, 2018 – June 30, 2018	Third Amended Complaint; Motion to Dismiss	148	74	69.7		49	340.7
III	July 1, 2018 – September 19, 2018	2018 Motion for Preliminary Injunction	186	25	166		11	388
IV	September 20, 2018 to October 2, 2018	Motion to Stay, Motion for Additional Injunctive Relief	10	15	44			69
V	October 3, 2018 to February 8, 2019	Stay, 2018 Election, Appeal ⁵	5	16	29			50
VI	February 9, 2019 to August 15, 2019	2019 Motion for Preliminary Injunction	9	148	503	754		1414
VII	August 16, 2019 to Present	Enforcement and Fee Application	44.3	7	145.7	7		204
Totals			554.21	294.6	954.5	761	129	2693

⁵ Note that, although the appeal occurred during this time period, the appeal is only referenced here to provide context. The Coalition Plaintiffs are not seeking an award in this fee request for any attorney time that was spent on the Eleventh Circuit appeal, with the sole exception of time spent on settlement discussions that occurred in the appellate mediation context.

V. REASONABLENESS OF THE AMOUNT OF TIME SPENT

A. Overall Size and Complexity of the Case

Twenty-six hundred hours is an objectively reasonable amount of attorney time to spend successfully prosecuting a case of this magnitude. As the Court is well aware, the docket is now has over six hundred entries. The case is important and complex enough for the State’s Law Department to require three outside law firms: the Barnes Law Group until early 2019, and the Robbins Firm and Taylor English in 2019. The Robbins Firm used at least six lawyers throughout the case, and Taylor English at least two more. The State adopted such lawyer-intensive staffing even though it is the Plaintiffs, not the State Defendants, who must marshal evidence and satisfy a burden of proof. Fulton County has at least three lawyers on the case.

As the Court stated in its 2018 Order, the “subject matter in this suit is complex.” *Curling*, 334 F. Supp. 2d at 1321. The comprehensive orders entered by this Court reflect the complexity and difficulty of the case.

B. Narrative Description of the Work

Coalition Plaintiffs have filed detailed time records from each attorney describing the work performed in minute detail. To give the Court a better overall

description of the work and why it was reasonable and necessary, the Coalition Plaintiffs provide below a narrative description of the major case events that occurred during each phase of the case. As noted above, the phases are time periods only and, though particular activities predominated in each phase of the case, many activities (e.g., discovery, fact-gathering, expert witness preparation) occurred in every phase.

1. Phase I: 2017 to February 28, 2018: Case Initiation through Steptoe & Johnson Withdrawal

This litigation commenced on July 3, 2017, with the filing of a civil complaint in Fulton County Superior Court. Defendants timely removed the case to this Court on August 8, 2017. An amended complaint was docketed on August 18, 2017. (Doc. 14, 15.) Defendants filed motions to dismiss the amended complaint based in part on immunity defenses. (Doc. 49, 50.) On September 5, 2017, this Court stayed all discovery pending resolution of those immunity issues. (Doc. 56.) Plaintiffs filed a Second Amended Complaint (the “SAC”) on September 15, 2017, (Doc. 70), prompting renewed motions to dismiss, (Doc. 79, 82, 83, 84).

All plaintiffs up to this point had been jointly represented by common counsel—Steptoe & Johnson as lead counsel, and Holcomb & Ward as local

counsel. The preparation of the SAC, however, laid bare conflicting interests among the plaintiffs, and so on November 3, 2017, Steptoe sought leave to withdraw as counsel for the Coalition for Good Governance (“Coalition”). (Doc. 104.) The plaintiffs groups subsequently split into the groups that are before the Court today—the Curling Plaintiffs and the Coalition Plaintiffs—and a period of transition followed when Steptoe and Holcomb & Ward departed the case entirely.⁶

New counsel for both plaintiffs groups subsequently appeared. For the Coalition Plaintiffs, William Ney appeared as transition counsel in November 2017, Robert McGuire appeared for Coalition in December 2017, followed by Bruce Brown as counsel for Coalition and Cary Ichter as counsel for the Coalition and for the individual Coalition Plaintiffs. For the Curling Plaintiffs, Morrison & Foerster appeared as lead counsel and Krevolin & Horst LLC appeared as local counsel in March 2018.

⁶ In this fee petition, the Coalition does not seek to recover fees for the work performed by Steptoe & Johnson because (1) Steptoe participated in this case on a pro bono basis and (2) Steptoe ultimately chose, in the face of a conflict of interest among plaintiffs, not to represent the Coalition. Coalition is thus not the proper party to claim for Steptoe’s time. Coalition does, however, seek reimbursement for the full amount of legal fees that the Coalition was charged for services performed by Holcomb & Ward, which Coalition paid. For purposes of its own fee petition, the Coalition limits its claim in respect of Holcomb & Ward’s time to the amount of fees that Holcomb & Ward was actually paid by Coalition.

2. *Phase II: March 1, 2018 to June 30, 2018: Third Amended Complaint and Motions to Dismiss*

By early April 2018, all plaintiffs had new counsel. On April 4, 2018, the Coalition Plaintiffs filed their motion for leave (Doc. 160) to file their own Third Amended Complaint (the “TAC”). The TAC was addressed by the parties and the Court in a May 1, 2018 Status Conference (Doc. 186, 189), which prompted further briefing (Doc. 209). The Court granted Coalition Plaintiffs leave to file the TAC on June 13, 2018 (Doc. 225), and it was docketed as Document 226. The entirety of the TAC survived an interlocutory appeal on issues of jurisdiction and standing (Doc. 338), as well as two motions to dismiss (Doc. 375). The Coalition Plaintiffs’ TAC is the operative complaint under which this Court granted the Coalition Plaintiffs injunctive relief against the State’s continued use of DREs and defective epollbooks. (Doc. 579.)

Also during this “Phase II,” Coalition Plaintiffs renewed efforts to settle the case, sending substantial and detailed correspondence in April 16, 2018 to then-counsel for the Defendants, Roy Barnes and John Salter. (Doc. 258-1 at 92). This period also saw continued efforts to determine how Defendants were to preserve evidence in light of upcoming elections, including in-person conferences with the Court on May 1 and May 10, and a telephone conference with the Court on May 18, 2018. (Doc. 186, 189, 204, 205, 217). Though formal discovery remained

stayed because of Defendants' pending motions to dismiss, Coalition Plaintiffs continued informal gathering of case facts through Open Records Act requests, monitoring of primary and other elections, and by other means.

3. Phase III: July 1, 2018 to September 19, 2018 - 2018 Motion for Preliminary Injunction

After the Defendants did not respond to repeated demands from the Coalition Plaintiffs to switch to hand-marked paper ballots⁷ or to the escalating warnings from national intelligence and security officials,⁸ Coalition Plaintiffs filed a Motion for Preliminary Injunction on August 3, 2018. (Doc. 258).⁹

The Coalition Plaintiffs amassed a substantial evidentiary record in support of the 2018 Motion, evidence that would later form the foundation for the successful 2019 Motion. In support of the 2018 Motion, the Coalition Plaintiffs submitted evidence establishing the general vulnerability of DREs and electronic pollbooks, the heightened vulnerability of DREs in Georgia, the experience of Georgia voters in the 2018 mid-term elections, and the feasibility of injunctive relief. Coalition Plaintiffs submitted declarations from Logan Lamb (Doc. 258-1 at

⁷ Doc. 258-1 at 93 and *id.* at 98 n.3 (listing numerous prior demands).

⁸Doc. 258-1 at 91.

⁹

125), voters Jeanne DuFort (Doc. 296 at 177), Dana Bowers (*id.* at 61 and Doc. 277 at 45), Jasmine Clark (Doc. 258-1 at 105 and Doc. 296 at 173), Rob Kadel (Doc. 258-1 at 61), Carri Luse (*id.* at 257), and Laurie Mitchell (*id.* at 286).

In support of the 2018 Motion for Preliminary Injunction, Coalition Plaintiffs submitted nine declarations from six experts: Richard A. DeMillo (Doc. 277 at 52 and Doc. 285-1 at 1 (enclosing National Academies of Sciences Report “Securing the Vote”)), Philip Stark (Doc. 296 at 6); Matthew Bernhard (258-1 at 33; and Doc. 277 at 37), Rebecca Wilson (Doc. 258-1 at 296), Virginia Martin (Doc. 277 at 77 and Doc. 296 at 188), and Amber McReynolds (Doc. 277 at 93).

Coalition Plaintiffs lead counsel Robert McGuire and counsel Bruce Brown presented argument and examined witnesses at the September 12, 2018 hearing. (Doc. 307 (Transcript)). After the submission of post-hearing closing statements (*e.g.*, Doc. 302), the Court entered an Order on September 17, 2019, denying Defendants’ Motions to Dismiss and Denying Plaintiffs’ Motions for Preliminary Injunction. (Doc. 309). Importantly, however, the 2018 hearing led this Court to find a probability that the Plaintiffs would prevail on the merits and created the evidentiary foundation that the 2019 injunction motion would ultimately incorporate and build upon.

4. *Phase IV: September 20, 2018 to October 2, 2018 – Motion to Stay, Motion for Additional Injunctive Relief, Appeal*

The State Defendants immediately filed a Notice of Appeal of this Court’s denial of their motions to dismiss (Doc. 310) and moved to stay the case pending appeal. (Doc. 320). While the motion to stay was pending, Coalition Plaintiffs filed a Motion for Additional Injunctive Relief to address the vulnerability and corruption of electronic pollbooks, to enjoin Defendants from conducting elections on DREs after the November 2018 mid-term elections and to require audits of the tabulation of the anticipated large number of absentee ballots in the November election. (Doc. 372). Before the Coalition Plaintiffs’ Motion for Additional Injunctive Relief was heard, the Court on October 26, 2018, granted the Defendants’ Motion to Stay and administratively closed the case. (Doc. 337).

5. *Phase V: October 3, 2018 to February 8, 2019: Stay, 2018 Election, Appeal*

With the litigation administratively closed, efforts turned to developing a factual record based on the actual performance of the DREs and Electronic Pollbooks in the 2018 Elections. On November 3, 2018, just several days before the election, Coalition Counsel received information from a third party that the State’s “my voter page” system was vulnerable to an attack and promptly notified John Salter and Roy Barnes, counsel for the State Defendants. (Curling Counsel

David Cross did the same). In response, the Secretary of State’s spokesperson blamed the Georgia Democrat Party for hacking into the system and accused party officials of criminal conduct. Worse, with the election just days away, the Secretary posted a statement on the Secretary of State’s official web page – for every voter to see - stating that he was investigating Georgia Democrats after an alleged hacking attack, when there no hacking attack and there was never an investigation by the Secretary of State.

Meanwhile, the State Defendants lost their meritless appeal to the Eleventh Circuit on 11th Amendment immunity on February 7, 2019. *Curling v. Kemp*, 334 F. App’x 927 (11th Cir. 2019) (finding Defendants’ arguments counter to “settled precedents”). Coalition Plaintiffs are not seeking fees for work on the appeal in this motion, since appellate attorney fees may only be awarded by the Court of Appeals. *Common Cause/Georgia v. Billups*, 554 F.3d 1340, 1356–57 (11th Cir. 2009); 11th Cir. R. 39-2.

6. Phase VI: February 9, 2019 to August 15, 2019: 2019 Motion for Preliminary Injunction

After the Eleventh Circuit affirmed this Court’s exercise of jurisdiction in spite of the State’s frivolous interlocutory immunity and standing objections (Doc. 338), this Court by docket entry on March 18, 2019 directed the parties to meet and confer about the scope of the case in light of the passage of HB 316 and to address

the scope of discovery. The Court also scheduled a status conference for April 9, 2019. At the status conference, the State Defendants' counsel stated that the State, in direct response to this Court's 2018 Order, was addressing the critical vulnerabilities in the election system by purchasing a new system for implementation before the Presidential Primaries in 2020. Defendants initially took the position that Plaintiffs' claims with respect to the DREs were moot in light of the passage of HB 316 and that Plaintiffs' claims with respect to the BMDs were not yet ripe. After the Court gave the Defendants a specific briefing schedule on the mootness issue (Doc. 356), the Defendants on April 11, 2019, announced that they would not file a motion to dismiss on mootness. (Doc. 362 at 2).

In April and May, 2019, Defendants refused to participate in discovery themselves and sought to quash Plaintiffs' non-party subpoenas on grounds that the Court had not yet formally reopened the discovery period and had not rendered a decision addressing the remaining issues raised in Defendants' 2018 motions to dismiss. (Doc. 369). On May 16, 2019, Plaintiffs filed a Motion to Open Discovery (Doc. 374). On May 21, 2019, this Court entered an order denying the remaining issues raised in the 2018 motions to dismiss and ordering that discovery was to begin immediately. (Doc. 375).

Although the Court had already found in the Court's 2018 Order that Plaintiffs had established a likelihood of success on their constitutional claims, 334

F. Supp. 2d at 1324, and that Plaintiffs were likely to suffer irreparable injury without court intervention. The Court also stated, however, that the case “would benefit from some discovery and a full evidentiary hearing.” 334 F. Supp. at 1322.

Anticipating a heavier workload in a compressed period of time than their existing team of small-firm and solo lawyers might be able to handle in the face of conflicting commitments in other cases, the Coalition Plaintiffs expanded their legal representation to include Ezra Rozenberg, John Powers, and the team of several additional lawyers from the Lawyers’ Committee for Civil Rights Under Law in May, 2019.

The briefing and fact gathering that were required to support the Coalition Plaintiffs’ renewed Motion for Preliminary Injunction were substantial, requiring scores of hours by Coalition Plaintiffs’ lawyers and support staff. Coalition Plaintiffs, primarily through the work of the Lawyers’ Committee, devoted substantial efforts to discovery and hearing preparations relating to the feasibility of transitioning the State of Georgia to hand-marked paper ballots. The Coalition Plaintiffs engaged three experts to provide opinions on feasibility: Virginia Martin, Candice Hoke, and Amber McReynolds. Ms. Martin and Ms. McReynolds testified at the 2019 hearing, and the Court cited this testimony repeatedly in its Order granting relief.

In addition, Coalition Plaintiffs directed discovery at several Georgia counties to amass evidence showing the feasibility of transitioning to hand-marked paper ballots. Coalition Plaintiffs took depositions of officials from Gwinnett, Morgan, and Bartow Counties and served document subpoenas on those counties and Hancock County. Coalition Plaintiffs also took depositions of Defendants' expert Dr. Shamos and Michael Barnes.

The scale and scope of the foregoing efforts alone are sufficient to justify the amount of time that the Coalition Plaintiffs' lawyers spent on this Phase of the case. In addition, there were a number of other issues that required substantial attention during this time frame. Seven of those issues are addressed below:

a. GEMS Database and Server Discovery¹⁰

As soon as this Court denied the two motions to dismiss the Coalition Plaintiffs' TAC (and denied the motions in part with respect to the Curling second amended complaint), the Court ordered discovery to "begin immediately." (Doc 375, at 61.) Despite this Order, Plaintiffs were immediately met with Defendants' absolute refusal to allow any discovery of the GEMS databases or the GEMS

¹⁰ The fees and expenses claimed by the Coalition Plaintiffs in Plaintiffs' recently filed Motion for Sanctions (Doc. 623) for the work on GEMS database and server discovery are included in the fees and expenses claimed in the Coalition Plaintiffs' motion under Section 1988. Coalition Plaintiffs submit that each motion must stand on there own and any reconciliation of awards thereunder may be undertaken at the appropriate time.

servers. Litigation over the scope and mechanics of the GEMS discovery consumed a substantial amount of time in June, July, and early August, 2019. The work was tedious and difficult due in large part to logistical protections adopted by the Court to accommodate the State Defendants' misrepresentation that the structure of Georgia's GEMS databases was unique and therefore confidential.

On June 5, 2019, the State Defendants objected to GEMS database discovery in its entirety because of the alleged uniqueness of Georgia's GEMS database. (*See* Doc. 416 at 1). This led to a June 10, 2019 "meet and confer" at State Defendants' counsel's offices, a June 19, 2019, telephone conference among counsel, and the June 21, 2019 filing of the "Consolidated/Joint Discovery Statement Regarding Coalition Plaintiffs' First Request for Production" (Doc. 416). (The Curling Plaintiffs joined the dispute in Doc. 420). The GEMS dispute was also closely related to a separate dispute concerning the protective order, which addressed how confidential and "attorneys-eyes-only" materials would be handled. The dispute over the terms of the protective order was presented to the Court in the June 25, 2019, "Consolidated/Joint Discovery Statement on the Need for a Protective Order" (Doc. 429).

The Court addressed both of the GEMS discovery dispute and the related protective order issues in a June 28, 2019, telephone conference (Doc. 438), which led to additional briefing (Doc. 440, 441) and the Court's Order of July 2, 2019

(Doc. 446). That order directed the parties to meet and confer concerning the State's proposed protocols for the production of the GEMS databases, which, in turn, led to additional briefing and submission of expert testimony concerning protocols, including Plaintiffs' July 3, 2019, "Proposal Regarding Security Protocols for Review of GEMS Database," (Doc. 451), with declarations from Matt Bernhard (Doc. 451-3) and Alex Halderman (Doc. 451-2).

These filings led to the Court's Order (by docket entry only) on July 8, 2019, directing the State Defendants to provide information about how the State could host the discovery of the GEMS databases. This prompted further briefing the same day by Plaintiffs (Doc. 455) and the State Defendants (Doc. 456) and another Minute Order by the Court. More briefing ensued the next day by Plaintiffs (Doc. 460), and an Order on GEMS Database Discovery by the Court. (Doc. 463). Further briefing ensued on the State Defendants' position that Phase I GEMS discovery was moot (Doc. 470), which led to another telephone hearing on July 11, 2019. (Doc. 482).

Again, all of this litigation activity was based on the State Defendants' misrepresentation that the structure of Georgia's GEMS database was unique. On July 12, 2019, the databases were finally delivered to Plaintiffs' experts in Ann Arbor, just two weeks prior to the hearing on the motion for preliminary injunction. Plaintiffs' expert quickly discovered that there was nothing

confidential or unique about Georgia's GEMS databases – they were exactly the same as public GEMS databases from other jurisdictions. (GEMS Screenshots, Doc. 489).

On July 15, 2019, counsel for Coalition Plaintiffs and Curling Plaintiffs conferred with counsel for the State Defendants about the State Defendants' misrepresentations. Counsel for the State Defendants would not respond to questions about the misrepresentation and did not respond to follow up emails. Counsel for Plaintiffs informed counsel for the State Defendants that Plaintiffs would seek relief from the Court at the appropriate time. Plaintiffs filed a Joint Motion for Sanctions on October 11, 2019, which is currently pending. (Doc. 623).

b. 2018 Election Discovery

Lawyers and staff for the Coalition Plaintiffs devoted a substantial amount of time obtaining evidence from voters on their actual experiences attempting to vote in the 2018 elections. Of the hundreds of declarations obtained and reviewed, the Coalition Plaintiffs selected the most relevant and filed those in two large volumes of evidence on June 19, 2019 (Doc. 412 and 413). This evidence showed that in the 2018 elections Georgia voters experienced a multitude of problems in their attempts to to vote using DREs: candidates did not appear on the electronic

ballot until the summary screen, voters received ballots from the wrong congressional district, DREs would “self-cast” ballot before the voter finished making selections, DREs flipped votes from Stacey Abrams to Brian Kemp, DREs randomly generated error messages, malfunctioning DREs were not replaced by pollworkers, and so on.

Scores of declarations filed by the Coalition Plaintiffs also described a host of problems with electronic pollbooks encountered by voters and pollwatchers. (Doc. 412 at 108 to 323). This evidence supplemented a number of declarations that Coalition Plaintiffs submitted in 2018 describing similar problems that were encountered with the electronic pollbooks in the 2018 primaries. (*See* Doc. 258-1). Problems with the electronic pollbooks lead directly to massive voter disenfranchisement.

The Court discussed this evidence in detail in its Order. (Doc. 579 at 90 to 111).

Coalition researchers also reviewed hundreds of polling place records including poll tapes locating numerous discrepancies and indications of machine defects and unreconciled differences in ballots cast and ballots counted.

c. Role of Municipalities

During the May 24, 2019 telephone conference, the Court raised the issue of how a preliminary injunction prohibiting DREs to be used as voting devices would affect the administration of local and municipal elections, given that the Secretary, the State Board and the Fulton Board were the only parties to the action. In a May 29, 2019 Brief, Coalition Plaintiffs explained that an injunction prohibiting the Secretary from using DREs would, in effect, prohibit their use statewide because the Secretary is the solely responsible for programming the DREs. (Doc. 379). In addition, as to the burden on non-party municipalities, Coalition Plaintiffs explained that Georgia law obligated the Secretary and the State Board to support local jurisdictions in their the use of any voting system, which included hand-market paper ballots. (Doc. 379 at 6 - 7).

The Court discussed this issue in detail in its Order. (Doc. 579 at 12 to 21).

d. Lieutenant Governor Election Evidence

The Coalition was an original plaintiff in *Martin v. Raffensperger*, a state-court election contest now pending before the Supreme Court of Georgia. The evidence obtained in that case, which the Court directed the State Defendants to file in this case (Doc. 418), showed that the unusually high undervote in the Lieutenant Governor's race occurred only in votes cast on the DRE voting

machines. (Doc. 419-1 at 24-28). This evidence was relevant to this case because, as Dr. Philip Stark opined, the “disparity in undervote rates by voting technology strongly suggests that malfunction, misconfiguration, bugs, hacking, or other error or malfeasance caused some DREs not to record votes in the Lt. Governor’s contest.” (*Id.*). Precinct-level analysis of the reported votes also revealed that the drop-off in voter participation was much greater in precincts with a high percentage of African American voters. (*Id.*).

The Coalition Plaintiffs do not seek reimbursement for the actual cost of developing this evidence in the *Martin* litigation. It was reasonable and efficient for the Coalition Plaintiffs to address this evidence in detail in its briefing. (Doc. 419-1 at 24-28; Doc. 507 at 13-17).

e. State Defendants Subpoena Churches

On June 28, 2019, the State Defendants issued subpoenas to Ebenezer Baptist Church and 11 other local churches and organizations. The only reason this discovery was served was to harass these Churches and support the Secretary of State’s media message. In response, the Coalition Plaintiffs filed a Motion to Quash explaining the many reasons this discovery should not go forward. The Motion was stricken because it did not follow the Court’s discovery dispute resolution protocols, and Coalition Plaintiffs are not seeking reimbursement for the

work on the Motion to Quash. (*See* Ex. E, E. Rosenberg Decl. at ¶ 46). The State Defendants eventually withdrew the discovery.

f. Ballot Secrecy Claim

Discovery has yet been permitted that would reveal conclusively whether DREs *do* retain information which links an individual voter to his or her cast ballot (something the State Defendants argues when resisting discovery (Doc. 369 at 22-23)), or whether DREs *cannot* retain such information (the contrary argument that the State Defendants made when resisting Plaintiffs’ Motion for Preliminary Injunction, (Doc. 472 at 55)). The State Defendants have never addressed, much less reconciled, their conflicting positions.

The Court did not address ballot secrecy in its injunction order. (Doc. 579.) In light of the Defendants’ argument made in discovery that inspection of the DREs could indeed violate ballot secrecy, however, the Coalition Plaintiffs’ efforts to pursue the issue were certainly reasonable, and the fact that the relief granted was not ultimately based on ballot secrecy violations is immaterial to the fee petition. *Hensley*, 461 U.S. at 435 (“Litigants in good faith may raise alternative legal grounds for a desired outcome, and the court's rejection of or failure to reach certain grounds is not a sufficient reason for reducing a fee. The result is what matters.”)

g. KSU Server Destruction of Evidence

Finally, Defendants' destruction of evidence warranted the commitment of additional resources in the preparation and filing of the Coalition Plaintiffs' Hearing Brief on Evidentiary Presumption Arising from Spoliation of Evidence. (Doc. 548). That Brief detailed how the State Defendants, almost immediately upon receiving notice of the pendency of this suit and allegations of the insecurity of electronic voting in the State, destroyed the evidence that was "ground zero" for establishing hacking, unauthorized access, and potential manipulation of election results. The Brief further described how less than a day of the removal of this case to this Court, the State and its agents destroyed a second server and all of its resident data. And the Brief complained of the ongoing spoliation of evidence by the State Defendants, who, despite repeated preservation demands, continued over and over again to delete and overwrite data previously preserved in the DRE's memories and on memory cards used in relevant elections.

As the Brief noted, the servers destroyed by the State Defendants and the memory cards overwritten or deleted by the State Defendants were the repository of records that go to the most critical issues in this case: logging records that would reflect unauthorized access of the election servers; deleted files or manipulated data; implanted malware that, as this Court has seen, can actually change an elector's vote and thereby actually change an election result.

In response, the State Defendants insisted that the servers were not destroyed but instead were “repurposed,” (Doc. 558 at 2), and accused Coalition Plaintiffs’ counsel of sharing their brief with reporters before it was filed. (*Id.* at 3-4.) The State Defendants also took the position that some of the evidence had not been lost entirely because the FBI has an image of the “repurposed” CES server. Yet the State Defendants now are refusing to allow Plaintiffs to conduct forensic discovery on the FBI’s image of the now-destroyed CES server, taking the position that the Court’s Order (which they are coy about whether they will appeal) moots the issue. The State Defendants refusal to permit this discovery – which would only cost them if they have something to hide –has thus prompted yet another discovery dispute that is currently before the Court. (Doc. 589).

These disputes illustrate why the Coalition Plaintiffs were required to spend the time that they did during Phase VI. At every stage of this litigation, the State Defendants have put the Plaintiffs in the position of having to overcome a scorched-earth defense and frivolous arguments on everything from *Ex parte Young* to discovery of the GEMS databases. Now that they are faced with the financial consequences of their own litigation tactics, the State Defendants should not be permitted to second guess the time that the Plaintiffs have had to spend to overcome so much meritless opposition.

7. *Phase VII: August 16, 2019 to Present: Post-Injunction Enforcement and Fees*

The last chronological phase brings us to the present time. Phase VII encompasses both the Plaintiffs' ongoing supervision of this Court's injunction Order and the present claim for attorney fees and expenses. Under Section 1988, successful plaintiffs may recover attorneys' fees for efforts undertaken to enforce the judgment. *United States v. Conces*, 507 F.3d 1028, 1039 (6th Cir. 2007). Coalition Plaintiffs accordingly seek reimbursement for efforts undertaken to ensure that Defendants are complying with the injunction and that the injunction is explicit enough to insure meaningful efforts by the State Defendants to develop a backup plan for the 2020 elections and to address the persistent problems with electronic pollbooks. These efforts included meeting and conferring with the State Defendants on issues relating to compliance as well as the filing of Coalition's Rule 59(e) Motion to Alter or Amend the Judgment (Doc. 605, 621).

Successful Plaintiffs also may recover for time spent in connection with preparing a fee petition. *Johnson v. University College*, 706 F.2d 1205, 1207 (1983). Coalition Plaintiffs' counsel seek to recover for less than 150¹¹ hours spent in connection with preparing the petition, which is reasonable in light of the size of

¹¹ This is an estimate. The number of hours spent in Phase VII is 204 to date, but that period included substantial work on Coalition Plaintiffs' Rule 69(e) Motion and ongoing discovery disputes.

the case and the requested award. *Compare Occasional Superstar* (after adjustment, finding 25 hours of time on fee award of \$46,213 was reasonable and appropriate).

VI. REASONABLENESS OF RATES

“A reasonable hourly rate is the prevailing market rate in the relevant community for similar services by lawyers of reasonably comparable skills, experience, and reputation,” *Norman v. Hous. Auth. of Montgomery*, 836 F.2d 1292, 1299 (11th Cir. 1988), “regardless of whether plaintiff is represented by private or non-profit counsel.” *Blum v. Stenson*, 465 U.S. 886, 895 (1984). “Civil rights litigants may not be charged with selecting the nearest and cheapest attorney.” *Dowdell*, 698 F.2d at 1192.

Coalition Plaintiffs are requesting the following hourly rates. The qualifications of each of the lawyers is discussed in greater detail in the attached declarations.

Robert McGuire: \$615. Mr. McGuire graduated from Princeton in 1994 and Yale Law School in 1999, where he served as a Senior Editor of the Yale Law Journal. After law school, Mr. McGuire clerked for Judge James B. Loken of the U.S. Court of Appeals for the Eighth Circuit. Prior to starting his own firm in 2009, Mr. McGuire worked in the capital markets group of Allen & Overy LLP in

London, U.K., where his hourly rate ranged between \$725 and \$1,000. Since 2009, Mr. McGuire's law practice through his own firm has focused on federal and state elections laws and litigation. Mr. McGuire's practice is split between Seattle, Washington, and Denver, Colorado, and he has represented clients in election and other cases all over the country.

Bruce Brown: \$625. Mr. Brown graduated from Davidson College in 1979 and University of Georgia School of Law in 1984. After law school, Mr. Brown clerked for Judge Edward A. Tamm of the U.S. Court of Appeals for the District of Columbia Circuit and Chief Justice of the United States Warren E. Burger. Mr. Brown practiced with Long, Aldridge & Norman (and its successor, McKenna, Long & Aldridge) from 1986 to 2012, when he started his own practice. When he left McKenna, Mr. Brown's hourly rate was \$605. Mr. Brown has specialized in complex commercial, regulatory and constitutional cases throughout his career.

Cary Ichter: \$625. Mr. Ichter is the managing partner of Ichter Davis, LLC, and has practiced in Atlanta since graduating *magna cum laude* from the University of Georgia School of Law in 1984. Mr. Ichter began his legal career working for Powell, Goldstein, Frazer & Murphy, where he worked until 1992. In 1992, Mr. Ichter co-founded the firm Meadows, Ichter & Trigg. Mr. Ichter is known by reputation as a "highly skilled litigator." (Remar Decl., ¶ 10).

Additional information about Mr. Ichter's practice and experience may be found in his declaration (Ex. D), and his firm web site, ichterdavis.com.

William Ney: \$450.00. Mr. Ney is a 1999 graduate of Emory Law School and has practiced in Atlanta since 2001. Mr. Ney was a founding member of Ney Hoeffcker Peacock & Hayle, LLC, where he practiced until 2018, when he started his own solo practice. Mr. Ney has handled a wide range of civil cases throughout his career, with a speciality in professional liability cases. Mr. Ney frequently serves as an expert witness on lawyers' standard of care and reasonableness of fees. (Ex. F, Ney Decl.).

Lawyers' Committee Lawyers. The two primary lawyers from the Lawyers' Committee engaged in this case are Ezra Rozenberg and John Powers. Mr. Rosenberg (\$650) is the Co-Director of the Voting Rights Project at the Lawyers Committee. (*See generally*, Ex. E, E. Rosenberg Decl., ¶¶ 8-11). A 1974 graduate of New York University School of Law, Mr. Rosenberg practiced with Dechert for many years before leaving to join the Lawyers' Committee in 2014. Mr. Rosenberg has substantial experience at Dechert and the Lawyers' Committee on voting rights cases, representing plaintiffs in high profile cases throughout the country. Mr. Rosenberg many honors and other information on his background may be found in his declaration.